

COUNCIL MEETING

MAY 22, 2013

The Council Meeting of the Council of the County of Kaua'i was called to order by the Council Chair Jay Furfaro at the Council Chambers, 4396 Rice Street, Room 201, Lihu'e, Kaua'i, on Wednesday, May 22, 2013 at 9:00 a.m., after which the following members answered the call of the roll:

Honorable Gary L. Hooser
Honorable Ross Kagawa (*present at 2:05 p.m.*)
Honorable Nadine K. Nakamura
Honorable Mel Rapozo
Honorable JoAnn A. Yukimura
Honorable Jay Furfaro

Excused: Honorable Tim Bynum

APPROVAL OF AGENDA.

Ms. Yukimura moved for approval of the agenda as circulated, seconded by Mr. Rapozo, and unanimously carried.

MINUTES of the following meetings of the Council:

March 13, 2013 Council Meeting
April 24, 2013 Council Meeting

Ms. Yukimura moved to approve the Minutes as circulated, seconded by Mr. Rapozo, and unanimously carried.

Chair Furfaro: Before I go to the Consent Calendar, I have some housekeeping notes for the rest of the Agenda. Earlier this morning, at 8:30 a.m., we had called for the public hearing on the Mayor's modified budget. Just a reminder, the Special Council Meeting for the second and final reading of the budget will be Tuesday, May 28th, here at the Chambers. Today, for Executive Sessions, we are going to note that the Special Counsel for ES-641, Mr. Sato has called in ill from Honolulu today and I am going to ask right now if we can have a deferral on ES-641.

There being no objections, item ES-641 was taken out of order.

EXECUTIVE SESSION:

ES-641 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney, on behalf of the Council, requests an Executive Session with the Council, to consult with Special Counsel relating to the investigation of personnel matters involving the Office of the County Auditor and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities and/or liabilities of the Council and the County as they relate to this agenda item.

Mr. Rapozo moved to defer ES-641, seconded by Ms. Yukimura, and unanimously carried.

Chair Furfaro: Now before I go to the Consent Calendar, you will notice that the room is extremely fragrant today and we have many gifts of *Aloha* and to say in particular to Elaine Tamura, on behalf of the entire Council and some of our Staff, we have made excellent use of the floral decorative pieces for today's meeting. Thank you very much.

Ms. Yukimura: *Mahalo.*

Chair Furfaro: Yes, *Mahalo*, Elaine. I have been informed from the Mayor's Office that Bill No. 2460, Draft 1, which, in fact, deals with the Kaua'i County Building Code, the amended version, the Mayor is asking for a deferral on that item as well today. Could we please note a deferral and I do have the Mayor's deferral request?

There being no objections, Bill No. 2460, Draft 1 was taken out of order.

BILL FOR SECOND READING:

BILL NO. 2460, Draft 1 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 12, OF THE KAUAI COUNTY CODE 1987, AS AMENDED, ENTITLED "BUILDING CODE"

Mr. Rapozo moved to defer Bill No. 2460, Draft 1, seconded by Mr. Hooser, and unanimously carried.

Chair Furfaro: Okay on that note, I believe we can go to the Consent Calendar and take public speaking and make note that the time is 9:05 a.m. and there is no one in the audience for the reading of the Consent Calendar and the Consent Calendar includes items C 2013-186, C 2013-187, C 2013-188, C 2013-189, and C 2013-190.

CONSENT CALENDAR:

C 2013-186 Communication (05/08/2013) from the Mayor, submitting his supplemental budget communication for Fiscal Year 2013-2014 and proposed amendments to the budget bills, pursuant to Section 19.02A of the Kaua'i County Charter: Ms. Nakamura moved to receive C 2013-186 for the record, seconded by Mr. Rapozo, and unanimously carried.

C 2013-187 Communication (04/10/2013) from the County Engineer, transmitting for Council consideration, proposed amendments to Chapter 14, Kaua'i County Code 1987, as amended, relating to the Plumbing Code: Ms. Nakamura moved to receive C 2013-187 for the record, seconded by Mr. Rapozo, and unanimously carried.

C 2013-188 Communication (04/29/2013) from the Chief of Police, transmitting for Council consideration, proposed amendments to Chapters 16 and 19, Kaua'i County Code 1987, as amended, relating to abandoned vehicles: Ms. Nakamura moved to receive C 2013-188 for the record, seconded by Mr. Rapozo, and unanimously carried.

C 2013-189 Communication (05/07/2013) from the Director of Planning, transmitting the Planning Commission's recommendation to amend Chapter 8, Kaua'i County Code 1987, As Amended, to clarify the process for approving or denying a proposed zoning amendment, increasing the processing fee for such amendments, and extending the timeline for decision making by the Planning Commission and County Council for such amendments: Ms. Nakamura moved to receive C 2013-189 for the record, seconded by Mr. Rapozo, and unanimously carried.

C 2013-190 Communication (05/07/2013) from the Director of Planning, transmitting the Planning Commission's recommendation to adjust fess charged and levied by the Planning Department, pursuant to Chapters 7, 8, and 9 of the Kaua'i County Code 1987, as amended, and to clarify procedures concerning the timing of renewals: Ms. Nakamura moved to receive C 2013-190 for the record, seconded by Mr. Rapozo, and unanimously carried.

Chair Furfaro: We also have a special request today from the Housing Agency to keep the review on their item for 11:00 a.m., they have speakers coming in from Honolulu at 11:00 a.m. this morning. On other Executive Session matters, this is more for Hō'iike that 2:30 p.m. today we will be breaking for ES-638 and ES-640, we have eleven Executive Sessions for this afternoon, but we will have to come back for a vote on the floor that needs to be recorded for C 2013-197, C 2013-198, and C 2013-199 so you have to be quite flexibility with your time today. On that note let us go to Communications, Mr. Clerk. Excuse me, did you gentlemen intend to comment on the Consent Calendar? No? Thank you, please continue.

COMMUNICATIONS:

C 2013-182 Communication (04/23/2013) from Council Chair Furfaro, requesting the presence of the Director of Planning and the Prosecuting Attorney, to provide the Council with a briefing regarding the coordination of efforts between the Planning Department and the Office of the Prosecuting Attorney to enforce the Transient Vacation Rental (TVR) ordinances and their plans for dealing with the various enforcement issues raised by the public and Councilmembers.

Chair Furfaro: So note, this item was deferred two weeks ago and came back on the schedule, even though we have introduced in the week in between a new Resolution. I will call the County Attorney up, because I understand that the Planning Director will not be attending today.

There being no objections, the rules were suspended.

ALFRED B. CASTILLO, JR., County Attorney: That is correct.
That is on the advice of Counsel.

Mr. Rapozo moved to receive C 2013-182 for the record, seconded by Ms. Nakamura.

Chair Furfaro: Thank you, motion to receive. Commentary? I will be taking public testimony, but again, I want to remind you this communication was previous to the Resolution.

Ms. Yukimura: If I may ask?

Chair Furfaro:
County Attorney?

You have the floor for a question for the

Ms. Yukimura: I think I said many times on the floor that we were going to use this period to understand more about the process, and the plans. So I am quite disappointed that neither the Prosecutor, nor the Planning Director is here, but apparently it is under advice of Counsel. Mr. Castillo, what are the grounds for advising the Planning Director that he cannot speak today?

Mr. Castillo: Good morning, Council Chair, Councilmembers. Councilmember Yukimura, as you know, I cannot elaborate on...it is privileged information.

Ms. Yukimura: You can definitely tell us the grounds by which you are advising him not to come, because he may be able to speak on certain things, but not on others.

Mr. Castillo: Well, and like I said, that is privileged information and I cannot divulge any discussions that I have had with Mr. Dahilig.

Ms. Yukimura: Your reasons are privileged information? Your reasons that the basis of your advice or Mr. Dahilig's decision not to show up is privileged? You cannot give us a basic reason why he cannot show up and if so, does that mean he does not show up on June 12th as well?

Mr. Castillo: I am trying to help out the situation here. If you are asking me that could Mr. Dahilig come here and basically say to the Council that, "I am not going to say anything and I invoke the fifth," and that could have happened too. I cannot comment on any discussions that I have had with Mr. Dahilig.

Ms. Yukimura: You are saying that he cannot speak to the process by which the Planning Department prosecutes Transient Vacation Rentals or at least sort out the policies regarding TVSSs?

Mr. Castillo: Councilmember Yukimura, I think it would be better, if instead of speculating on what the questions will be in regard to what the Council intends to do regarding 3.17, and if specific questions regarding that could be made beforehand and I think then it would be helpful then...then Mr. Dahilig would not have to invoke a broad spectrum of his Constitutional right not to say anything.

Ms. Yukimura: Mr. Castillo, we are not even talking about an investigation on this issue. The communication from Chair Furfaro requesting the presence of the Director of Planning and the Prosecuting Attorney to provide the Council with a briefing regarding the coordination of efforts between the Planning Department and the Office of the Prosecuting Attorney to enforce Transient Vacation Rental Ordinances and their plans for dealing with various enforcement issues raised by the public and the Councilmembers. So there is nothing about an investigation.

Mr. Castillo: And there is where I would have to disagree, where you are stating that there is nothing regarding an investigation here, because the subject-matter is TVRs and the Council is going through a decision-making

process of how and when the investigation regarding the 3.17. I think it is prudent for...I mean, I cannot comment on whether or not...I am sorry. It is my understanding that he is not here because he has a right not to say anything at this point in time.

Ms. Yukimura: We have a Planning Director who is responsible for the enforcement of Transient Vacation Rentals.

Mr. Castillo: I understand.

Ms. Yukimura: It is a very important issue to the public and you are saying that he has a right not to be here. I am talking about his responsibility to be here.

Mr. Castillo: Well, yes, okay. Well, that is what I would like to clarify. Because I am pretty sure that the Department would be able to give the Council all that they have done regarding TVRs and what they plan to do, but that is the reason why I asked...I said it would be best if the specific questions were laid out because this is headed for an investigation for 3.17.

Ms. Yukimura: Well, then why do you not just sit next to him and if there is a question inappropriate for him to answer, then you say so. But to have a blanket prohibition for him talking to the Council about an issue that he is responsible for as a public official and we are responsible for inquiring about. I do not understand how he cannot show up, based on legal advice.

Mr. Castillo: That is the reason why I did mention earlier, if you wanted him to be present for him to answer your questions, or not answer your questions.

Ms. Yukimura: So why could he not be here and then you advise him? Because we may have questions that come up, that go...we may give you a list of all the questions that we want to ask, but we may have follow-up questions, we may have new questions that come to mind as we are in discussion. To have this system where we have to put it in writing and then put it on the agenda is ridiculous. It is a much more workable system to respect your issues and have you sit there and tell him when the question is inappropriate and he shall not answer.

Mr. Castillo: I do not share your understanding about whether or not anyone invoking their Constitutional right is ridiculous. I think this is an important matter, and if...maybe Council Chair, if we could get a recess, and then I can have someone call Mr. Dahilig.

Chair Furfaro: I have two (2) questions for you, one from me, and one from Mr. Rapozo. My question is, is the way that I worded the correspondence, because it relates to certain enforcement issues that deal with comments and identified by the public that conflicts with the Resolution, which identifies them by tax map key numbers. If I worded this differently, then making reference to that? Is that what you are telling me, I should talk about the procedure in enforcement versus the actual complaints that have come to the Council?

Mr. Castillo: Yes, Council Chair. Council Chair, because in regard to general procedures, I do not see any problem regarding general procedures.

Chair Furfaro: Okay. You have answered my question at this point. Mr. Rapozo you have the floor and I do plan to take a recess and put this later in the day and you can take that time to sort out the thinking on this.

Mr. Castillo: Thank you.

Chair Furfaro: Mr. Rapozo.

Mr. Rapozo: Thank you, Al, for being here and let me say I agree with everything that Councilmember Yukimura said. I do not think it has ever happened in all the years I served. I do not agree with a lot of what she says, but this I agree with what she said one hundred percent (100%). This posting is proper and Al, who is representing the Planning Department? Is that you?

Mr. Castillo: The Planning Department is right now as we speak is being represented by Ian Jung.

Mr. Rapozo: So Ian Jung advised the Planning Director not to be here today?

Mr. Castillo: I do not want to...I cannot tell you who advised who. But why do you not have Mr. Dahilig come here?

Mr. Rapozo: There is no sense to have him come here if he is going to say "he cannot tell us anything." If a Deputy County Attorney who is representing the Planning Department made that ruling, then I would like an opportunity to have a Deputy to represent this Council to argue that point. This posting is for them to come tell us what they are going to do, and has nothing to do with 3.17. To me, it is an outright...I can tell you that I have never seen this as well, no, we are not going to answer any questions of the County Council. That to me, that is disrespectful and I do not know if it rises to the level of violation of any kind Charter requirement, but to say I am not coming to talk about anything...I can understand like JoAnn said, if we ask about a specific thing and obviously, we are not going to answer that question here and I did not even hear an offer to go into Executive Session. But no, we are not talking. Sorry, we are not and I find that really, really disturbing. So I would like to have an opportunity to discuss our issue or our concerns with a Deputy County Attorney as well?

Mr. Castillo: Yes, Councilmember Rapozo, in terms of advising the Council, it would be my obligation to advise the Council, and because of the sensitive nature of what is happening here, yes, I would clearly advise the Council that we go into Executive Session regarding any questions that you may have. If I am not mistaken, I think that we will be placing this on the agenda for Executive Session, rather than have a debate about the legal issues on the Council floor.

Mr. Rapozo: Al, we have an obligation to follow the Sunshine Law as well and if the discussion does not rise to that level, we violate the Sunshine Law, if we are talking about general policy in that room.

Mr. Castillo: Wait, wait, I just said that for general questions regarding procedures, I do not see any problem with that, and that is why I asked Council Chair Furfaro to give me time to contact the Department and have Mr. Dahilig come here.

Mr. Rapozo: Today?

Mr. Castillo: Just for your information, it was my understanding that he was not going to...if he was going to come here, because of the possibility of a 3.17, that he was not going to say anything and invoke the Fifth, which is his Constitutional right.

Mr. Rapozo: And the public should know that and if he wants to come up here and say Kaua'i County Council, I plead the Fifth, then the public needs to hear it from his lips. It is his right, and everybody's right, but I want the public to know that the Planning Director on this day pled the Fifth Amendment.

Mr. Castillo: The way you are characterizing it is that there is something to hide.

Mr. Rapozo: Typically when you plead the Fifth, you are reserving the right that anything that you say can be used against you in Court. That is what it is.

Mr. Castillo: When you plead the Fifth, you are, you are saying that you have a Constitutional right and nothing...it should not be negative at all.

Mr. Rapozo: I understand.

Chair Furfaro: Excuse me, let me intercede here. I am going to move this to a little later today, okay? I would like you to have some conversation with Mike, okay? There are two (2) parts to this piece. Obviously, the concerns that have been raised by the public, which is well-documented and is also appearing in the Resolution; versus the planned procedures for managing in general, TVRs, okay? I am just going to move to the next item and give you some time to connect with him, and I will take a recess after you have had that discussion. But we will come back to this item.

Mr. Castillo: Okay.

Chair Furfaro: So you have some time is to sort this out with Mike.

Mr. Rapozo: Mr. Chair?

Chair Furfaro: Go ahead.

Mr. Rapozo: Just a process question and I am not sure who is the Parliamentarian over here, but is it possible for us to amend the agenda during the meeting?

Chair Furfaro: I would have to say I am not sure, but I would check with Peter Morimoto.

Mr. Rapozo: Can we check real quick? We cannot amend the agenda? We could do a motion to reconsider on the approval of the agenda?

PETER MORIMOTO, Legal Analyst:

It is not on the agenda.

Mr. Rapozo:
"and/therefore."

I just want to remove that last

Chair Furfaro: We can do that in this recess that I am planning and Mr. Hooser and then I will take a recess here.

Mr. Hooser: Mr. Chair, two (2) things. I think consulting with the Planning Director seems appropriate. At the same time, what you said was he will not be here because Counsel advised him not to be here and it is a matter of Counsel changing their mind and/or the Planning Director changing his mind too. Looking at the communication, I do not think anything needs to be amended. Clearly, various enforcement issues raised by the public and Councilmembers, is very broad and it does not mean that the Resolution...it does not mean what happened in 2004-2006, but it could mean what happened today. The public is very concerned that moving forward, there is no enforcement. The investigation deals with history. This communication deals with the future. It deals with what is the Prosecuting Attorney and the Department of Planning going to do moving forward? In my opinion, that is what it represents and I think it is perfectly appropriate and certainly way broad enough to meet any criteria that would allow the Planning Director to be here. I just wanted to make that point. Thank you.

Chair Furfaro:
recess, go ahead.

Understood. JoAnn and then I will take a

Ms. Yukimura: First of all, I just want to say that I do not appreciate you putting words into my mouth. I did not call Constitutional Rights or the defense of Constitutional Rights "ridiculous." In fact, I was suggesting a method by which you could protect Constitutional Rights, but where it would not stop us from asking the questions we should legitimately be able to ask and my question is if there is a problem with the question, it may be because the issue is under investigation. And if that is your reasoning, I think there is a legitimate ground to say that we cannot inquire into something under investigation, at least not in the open. But why do you not invoke that ground, which is totally reasonable grounds, rather than putting the Planning Department under a cloud of suspicion?

Chair Furfaro: On that note, I want to just move this a little bit later and I believe the way Councilmember Yukimura framed it, I think is how the question should be posed to the Planning Department. If it is the general administration of TVR policies and so forth, we can be able to discuss them. If he wants to basically say this particular item is under investigation, and therefore, chooses not to comment, I think we can understand that. But we need to take this so you can have some time to talk with him before I summarize this, you go ahead, and I will take the floor back afterwards.

Ms. Nakamura: I think that we ran out of time last time this was on the agenda and we did not have a chance to go over the Planning Department's plan of action. They had something in writing and I think we jumped into discussion rather than listening to what was going to be presented. I would like to get back to that point, where we can have a better understanding of what is being proposed going forward? I think that we just did not have that full discussion the last time this was on the agenda.

Chair Furfaro: So Al, and the last time it was on the agenda, it was my communication as well. There was a timing issue with him needing to travel, but we will pursue finding out the other questions through Mr. Morimoto about what is the process about amending the agenda for today? We will get some clarity on that, but you take this time to talk to the Planning Department and we will get some clarity then.

Mr. Castillo: I will make the call, thank you.

Chair Furfaro: Very good. If you need to make the time, we have one of your other Deputies here, that can go to Deputy County Attorney Jennifer Winn and why do you not excuse yourself and we will come back to this later?

Mr. Castillo: Thank you.

Chair Furfaro: Thank you very much. Let us go to the next item, and we will be returning to C 2013-182.

KEN TAYLOR: No public comment?

Chair Furfaro: I said we will be returning to C 2013-182 and you will get an opportunity when we return to comment on that. Did you hear me?

Mr. Taylor: I heard you.

Chair Furfaro: What is that?

Mr. Taylor: I said I do not agree.

Chair Furfaro: I know you do not agree, but you know what? You are not running the meeting and you can be like your partner next door when he does not agree, he files a complaint with OIP and my response to OIP is, if Mr. Mickens wants to file a complaint on my process, he needs to be here and he was not even in attendance when he filed the OIP complaint and I made an administrative decision. I do not necessarily feel that you are going to be able to comment on this item. We will come back to it. Next item.

There being no objections, the meeting was called back to order, and proceeded as follows:

C 2013-191 Communication (05/01/2013) from the Housing Director, requesting Council approval to sell a residential unit located at 2151B Kelikoli Street, #20, Līhu'e, under the Neighborhood Stabilization Program (NSP), TMK: (4) 3-3-003-037-0020, by leasehold to a participant of the Affordable Housing Program Waitlist whose household income does not exceed 120% of the Kaua'i Median Household Income (KMHI), and to authorize the County Clerk to sign legal documents related to the resale of this transaction: Mr. Rapozo moved to approve C 2013-191, seconded by Ms. Yukimura.

Ms. Yukimura: Is this the one we were going to take up at 11:00 a.m.?

Chair Furfaro: No, that is not the one.

Ms. Yukimura: Alright, thank you.

Chair Furfaro: So this one is a motion to approve right now.

Ms. Yukimura: Yes.

Chair Furfaro: Further discussion? If not, anybody in the audience who wants to testify on this item before I call for the vote? No?

The motion to approve C 2013-191 was then put, and unanimously carried.

C 2013-192 . Communication (05/03/2013) from the Chief of Police, requesting Council approval to apply, accept, and expend the Department of Justice, Office of Community Oriented Police Services (COPS) Hiring Program Grant in the amount of \$1,668,857.40 for the hiring of seven (7) additional officers to staff one (1) additional beat: Mr. Rapozo moved to approve C 2013-192, seconded by Mr. Hooser.

Chair Furfaro: I am going to suspend the rules and ask the Deputy Chief to come up.

There being no objections, the rules were suspended.

MICHAEL M. CONTRADES, Deputy Chief of Police: Good morning, Council Chair, Councilmembers for the record Deputy Chief of Police, Michael Contrades.

Chair Furfaro: Mr. Contrades, I have a question here for you and I just looked at this briefly, but how did we get this a week after we went through the budget process?

Mr. Contrades: This came to our attention at the beginning of May. It was a grant opportunity that was E-mailed to us through the consultant who looks for grants for our County Agencies and it was an opportunity for us to expand our beats. We know that the County is in a difficult financial situation and we saw this as a chance to increase our beat, and minimize the cost to the County.

Chair Furfaro: Okay. So it was not brought to your attention until the first week in May?

Mr. Contrades: Yes.

Chair Furfaro: Okay. So let me ask you, if I read through, this is a 75/25% match?

Mr. Contrades: Yes, sir.

Chair Furfaro: Okay. Was there any contingency in the Police Department for the twenty-five percent (25%)?

Mr. Contrades: Well, what we are looking at, and in my discussions with the Finance Director, we have, if we are awarded, and what we are asking from the Council is approval to apply for it. The grant...we will know in September and we could get anywhere from no positions to one to seven and seven is

the maximum. What we are looking at is that we have up until twelve (12) months in order to execute it and put the Officers in place. So we will be looking at trying to fund this with the 2015 Fiscal Year Budget.

Chair Furfaro: Okay. But I want to make sure that you understand, and maybe this is the first time you have heard the narrative in here. It is not just apply. Once it is apply and accept. So once it leaves today, the Council does not have another opportunity to look at it. We are voting to give you the exception as well to not come back, but it is twenty-five percent (25%)?

Mr. Contrades: Yes, sir.

Chair Furfaro: Okay. And has there been...you know, we really have two (2) times in the year we can really look at things like this. We have the budget session, you know, which wraps up in early May, and then we have let us say late December when the CAFR comes back to use, we can see if we have any surplus moneys. Those are the two times that we look at it. What is the critical path that you think you folks will hear that you actually got the grant? Are we five (5), six (6) months out before you hear back?

Mr. Contrades: My understanding it is September will be the award. They have not given us the exact date and in October, the funds will be available.

Chair Furfaro: And is there any critical time that we then have to take the funds, the grant into our coffers?

Mr. Contrades: My understanding from October, it will be available, and if at that time it is determined that we cannot afford it, we do not have to go forward with it.

Chair Furfaro: But we could have ninety (90) to one hundred twenty (120) days to act on it? Do we know that?

Mr. Contrades: That part I am not sure of the...I could get you that information.

Chair Furfaro: I am not talking about the Council because this says "accept and approve." But from the standpoint that they actually transfer the money to us to do these hirings, whether it is one position or eight, we need some clarity to know how many days we have to actually execute.

Mr. Contrades: I believe the decision point will be in September, whether they give it to us or not.

Chair Furfaro: No, I heard that. What I am saying when they give it to us in September, it is now in our coffers, how long from December do we have to actually identify how we are spending it? Because what I am saying our next look will be when the CAFR comes. Are you following me, Chief? So it could be half a year, and that we realize in the reconciliation by the Auditors, we have the money to match with and we will know that in December. Those are the two (2) looks. Do we know if we are successful, which period of time we have to react to that? Are you coming up to answer that, Steve?

STEVEN A. HUNT, Director of Finance:

I believe so.

Mr. Contrades: Sorry, I am trying to understand what you are saying, because in October, if we do get the funds, we have twelve (12) months in order to expend it.

Chair Furfaro: Oh, that is the piece. There it is. So we have twelve (12) months once we know we have got the award.

Mr. Hunt: My understanding is from the award, you have twelve (12) months to actually hire, and it takes a period to hire. So backing out maybe five (5) or six (6) months would sort of determine the critical path when a decision has to be made.

Chair Furfaro: So we have a twelve (12) month window once we are successfully awarded the money. Do you agree with my synopsis that the two (2) times we have to look at this is during the budget process which was just last week or with the CAFR in the end of December.

Mr. Hunt: Correct, you could do a money bill if there were available funds surplus to cover that matching portion, that is correct.

Chair Furfaro: Would you have any problems, if this got to the point that we approved it today, that it is approving the application, rather than approving the acceptance?

Mr. Hunt: No, in fact, in all honesty, that was the intent to approve just the application. Once the plan had been formulated both for the short-term and long-term financial viability of this grant, then we would come back at that point for the acceptance and eventually the expenditure, when those funds were made available and a timing and critical path for the hires were known.

Chair Furfaro: Okay, so you understood the narrative that I am having a problem with as it is worded here.

Mr. Hunt: Yes.

Chair Furfaro: If we did approve this, we could amend it for being the application first and a second visit if we were successful.

Mr. Hunt: And that would be the recommendation from the Administration too is for the application to go through.

Mr. Contrades: That was our original intent was the application aspect of it. Unfortunately, we followed the template that normally says "apply, accept, and expend."

Chair Furfaro: Understood, Mr. Contrades this is referencing the grant and the template that we use for all other grants. Mr. Rapozo, you have the floor.

Mr. Rapozo: Thank you, Chair and thank you all for being here. When was the last time KPD expanded a beat?

Mr. Contrades: 1989.

Mr. Rapozo: 1989?

Mr. Contrades: Yes, sir. Twenty-four (24) years.

Mr. Rapozo: Twenty-four (24) years since this island has expanded the beats?

Mr. Contrades: Yes, sir.

Mr. Rapozo: This grant would allow us the opportunity to create one more beat?

Mr. Contrades: Yes.

Mr. Rapozo: And I guess I am getting the commitment from you today that is what this would be used for?

Mr. Contrades: Yes, sir.

Mr. Rapozo: If this passes and we get the funding that we would have eleven (11) beats on this island instead of ten (10)?

Mr. Contrades: That is our intent, yes.

Mr. Rapozo: And looks like our investment for this grant would be about half a million dollars?

Mr. Contrades: Total, yes.

Mr. Rapozo: County money?

Mr. Contrades: Yes.

Mr. Rapozo: Which again, five hundred thousand dollars (\$500,000) would create seven positions for...well, the grant is a three-year grant?

Mr. Contrades: Three years.

Mr. Rapozo: And the commitment after that would be with the County to maintain/retain the Officers in the fund?

Mr. Contrades: Yes.

Mr. Rapozo: This is a really, really stupid question, but I want to ask it on the record. Do we need that extra beat right now?

Mr. Contrades: Absolutely.

Mr. Rapozo: Thank you. And I agree that we should only approve "accept" and I am prepared to support "accept and expend" because this is not something that we cannot do. We pay now or we pay later is my position. So I will honor the request of the Finance Department, but this is something that has to be done. It has...I asked the Chief, I cannot remember how long ago, I asked you for

a five-year beat expansion plan and of course, the Chief has some tremendous goals and objectives that are pretty much difficult to fund right now. But this is an opportunity, at least to get us an extra beat, which people are crying out for more Police services. Thank you.

Mr. Contrades: Councilmember, if I may, just to give you a couple more statistics in terms of your line of thought. Since 1989 the de facto population has grown by twenty-eight percent (28%), yet there still remains ten (10) beat Officers on the street. The amount of calls for service has increased by seventy-eight percent (78%) since 1989 and yet the same amount of Officers respond to the number of calls.

Mr. Rapozo: Seventy-eight percent (78%)?

Mr. Contrades: Yes, sir. I believe it was nineteen thousand (19,000) in 1989 and a little over thirty thousand (30,000) today.

Mr. Rapozo: Obviously, this action, if we should get another beat, I would assume would decrease over time expenditures at the Kaua'i Police Department?

Mr. Contrades: Yes, that is one the big issues in terms of overtime is that when you have a set amount of people to deal with calls and those calls increase they are not distributed more evenly. Therefore someone has to pick-up the slack per say and the Officers end up having to do overtime.

Mr. Rapozo: I am very aware of what is happening today in the Department. I do have the opportunity to speak with Police Officers and it was almost thirty (30) years, twenty-five (25) years ago it was eight (8) beats, and of course the call volume was a lot lower. But today, these guys are stretched, beyond, I think what is reasonable and these guys are working extremely hard and spending a lot of time, overtime, writing reports on cases that can be done by a new beat Officer. I wish we could do more, but I think it is a good step. I would say, even if we were broke, broke, broke in three (3) years, I would say, you take the money from the overtime and other areas where we could find the money. It is something that I just believe we need to do. Appreciate you guys being here today and I am hoping that we can get this passed to at least apply and then make the tough decisions later. Thank you for being here.

Chair Furfaro: I have a couple of follow-up questions. This is a three-year grant?

Mr. Contrades: Yes, sir.

Chair Furfaro: This is the gross amount we are showing for all three (3) years?

Mr. Contrades: Yes, sir.

Chair Furfaro: So it is twenty-five percent (25%), the first year, Steve, it is one hundred thirty-nine thousand dollars (\$139,000), each year for three (3) years.

Mr. Hunt: With fringe and benefits...I think it was closer to...

Chair Furfaro: I am not finished with my question, okay.

Mr. Hunt: Okay.

Chair Furfaro: Your gross here, they will only cover the raw payroll, is that correct?

Mr. Contrades: My understanding is that it includes fringe.

Chair Furfaro: The one point six million dollars is payroll, not PT&E?

Mr. Hunt: I believe it is base pay plus the fringe.

Chair Furfaro: If I take twenty-five percent (25%) of the one point six million dollars, it is base pay and benefits?

Mr. Contrades: Yes.

Chair Furfaro: So we are looking for the amount of one hundred thirty-nine thousand dollars (\$139,000) for each year, that is what we are looking for? Excuse me, you have to introduce yourself.

STACY PERREIRA, Kaua'i Police Department: Do you folks have the updated sheet? I am assisting with this grant application.

Chair Furfaro: Let me ask you the questions directly, the one point six million dollars is raw payroll or including PT&E?

Ms. Perreira: It is including.

Chair Furfaro: And that is for three (3) years?

Ms. Perreira: Yes.

Chair Furfaro: Okay. So if I took twenty-five percent (25%) of that, as being our share, right?

Ms. Perreira: Yes.

Chair Furfaro: That is four hundred seventeen thousand dollars (\$417,000).

Ms. Perreira: This is the part I wanted to make some adjustments on. I think we sent an updated list...

Chair Furfaro: Let me finish, that is how I got to the one hundred thirty-nine thousand dollars (\$139,000) and then divided that by three (3) years.

Ms. Perreira: Yes.

Chair Furfaro: So not clarify that for us.

Ms. Perreira: The clarification comes in...we sent in an updated budget and that accounted for originally when we did the budget was just on the basis of the first-year Officer and we updated to first, second, and third and what happens after the first year, the Officer's base pay increases. So I had to account for that. That is what the new budget should reflect.

Chair Furfaro: So the number that I have in the correspondence that we are dealing with. Keep the lights on for a moment.

Ms. Perreira: Yes it is incorrect.

Chair Furfaro: It is incorrect?

Ms. Perreira: Yes.

Chair Furfaro: So the number in the Communication here is incorrect?

Ms. Perreira: Yes.

Chair Furfaro: So we can all correct our documents, what is that number?

Ms. Perreira: That number should be over the course of...for the first year, the twenty-five percent (25%) match is one hundred eighty-five thousand four hundred twenty-eight dollars and sixty cents (\$185,428.60). The second year should be one hundred ninety-two thousand seven hundred sixty-seven dollars and fifty-seven cents (\$192,767.57). And the same for the third. And that is with the increase in Officers' base pay after the first year.

Chair Furfaro: So now we can turn the lights off. Is that the number on the board?

Ms. Perreira: That is correct, yes.

Chair Furfaro: That includes PT&E?

Ms. Perreira: Yes.

Chair Furfaro: Does the Finance Department have this information?

Mr. Hunt: I was just given this by communication. So I do not have a hard copy, but I do have a copy of the E-mail.

Chair Furfaro: I want you to know that I based my number based on what is in our correspondence, so we are adding the first year one hundred eighty-five thousand four hundred twenty-eight dollars (\$185,428).

Ms. Perreira: The total comes to the three (3) years comes out to five hundred seventy thousand nine hundred thirty-six dollars and

seventy-four cents (\$570,936.74) is for the three-years, including the increase of Officers' base pay and keeping the fringe benefits the same.

Chair Furfaro: One more time, because I am writing slow and slowly, but the total amount for the three-year grant would be?

Mr. Rapozo: Five hundred seventy thousand nine hundred sixty-three dollars and seventy-four cents (\$570,963.74).

Ms. Perreira: That is the twenty-five percent (25%) match.

Chair Furfaro: That is not what I wanted. The whole grant, not our part, the whole grant.

Mr. Rapozo: It is two million two hundred eighty-three thousand eight hundred fifty-four dollars and ninety-six cents (\$2,283,854.96).

Ms. Perreira: Yes.

Chair Furfaro: And did you send us the corrected piece of that or is it in documents? Okay. I am not looking at the packet that I got today. I am looking at the correspondence on the agenda, which is what I use for management of the meeting. So, Steve, we are back to the fact that the number is...when we get the CAFR back, it is one hundred eighty-five thousand four hundred twenty-eight dollars (\$185,428) for the first year. Just so that we all understand that. Mr. Contrades, the Chief stepped out, I guess? Oh, so now I want to make sure that I understand, is the Police Department in favor, if I amend this to say there is a motion to approve the application and we have to come back for acceptance on the spending?

Mr. Contrades: Yes, sir, absolutely. Our whole intent is to get the opportunity to apply and see what happens.

Chair Furfaro: So you would be okay with that?

Mr. Contrades: Yes, sir.

Chair Furfaro: Can I hear it from the Chief, too? Chief, if the discussion turns today to actually a motion to approve the application, and acceptance, but not the actual expenditure until it comes back to the Council, you are okay with that?

DARRYL D. PERRY, Chief of Police: I am okay with that. Of course, we would like to move forward, but we understand the economic situation, and the timing of our application. So that would be fine with the Kaua'i Police Department.

Chair Furfaro: Okay, members, JoAnn, go ahead.

Ms. Yukimura: Thank you very much for the information. However, the grant that...I asked to see the grant application, and I see the form, but I do not see the grant application that is a listing of what your goals will be for this? How you are answering all of these questions on the grant form? So do you have a grant application that is filled out?

Mr. Contrades: We are in the process of doing that.

Ms. Yukimura: Because I would like to know what your proposed Community Policing Plan is? Would you be able to make that available?

Mr. Contrades: Once it is completed we can have that transmitted to you.

Ms. Yukimura: I would feel more comfortable before we voted on it, to see it, so we know what you are applying for.

Mr. Contrades: I apologize, Chair, that I did not introduce Officer Perreira properly, but she has grant writing experience and she is in the middle of drafting the application and so it is not completed. Again, our whole intent was to apply for it and get it.

Chair Furfaro: First of all, I think you are very fortunate for Officer Perreira and her grant writing talent. I just want to say something directed at Councilmember Yukimura in my thinking here, I am considering this amendment that would not allow you to spend the money, but would allow you to apply, then I would think when it comes back to us, we would actually see what you put in the narrative as far as the mission and goals. But you are still understanding that we will have another shot to say, yes, you can?

Ms. Yukimura: Right.

Chair Furfaro: So I would be all right with that, if amended. But on this note, let me give the floor back to Councilmember Yukimura.

Ms. Yukimura: Well, certainly you are able to tell me right now what your goals are for this expenditure that is going to commit the County to ultimately two million dollars (\$2,000,000) a year of County money.

Chair Furfaro: It is five hundred eighty thousand dollars (\$580,000) a year.

Ms. Yukimura: I believe the grant commits you to sustaining the program after three years.

Chair Furfaro: Yes, and after three (3) years, JoAnn, it is five hundred eighty-nine thousand dollars (\$589,000) a year, not two million dollars (\$2,000,000).

Ms. Yukimura: I think in the second year and the third year, it is matching moneys, but after three years...

Mr. Contrades: When the third year is done, from the fourth year on, it will be the County's responsibility to pick up the salaries.

Ms. Yukimura: And, in fact it says in the application...

Chair Furfaro: Excuse me, I want to make sure I understand the County's responsibility each year would be five hundred eighty-one dollars (\$581,000), not two million dollars (\$2,000,000).

Ms. Yukimura: No, it would be two million dollars (\$2,000,000) for the whole beat. It would be two million dollars (\$2,000,000) plus and I do not know if you have included collective bargaining costs.

Chair Furfaro: May I interrupt for a second, JoAnn, I want to be clear? So the grant is then reimbursable?

Mr. Contrades: For three (3) years the grant will pay seventy-five percent (75%) of all salaries and the County has to match twenty-five percent (25%). On the fourth year, they stop paying already and it is the responsibility of the County to pick up those salaries.

Chair Furfaro: And how much is that each year?

Mr. Contrades: For seven (7) officers at a PO 7 rate of pay is seven hundred seventy-one thousand dollars (\$771,000).

Chair Furfaro: Thank you. It is not two point one million dollars.

Mr. Contrades: Seven hundred seventy-one thousand seventy dollars and twenty-eight cents (\$771,070.28).

Chair Furfaro: Your worksheet if you look at it as a little number three on it.

Ms. Yukimura: Could we put that up, please?

Chair Furfaro: The added exposure is roughly seven hundred ten thousand dollars (\$710,000) per year.

Mr. Contrades: Seven hundred seventy-one thousand dollars (\$771,000) a year is what seven (7) officers will cost with the fringe?

Chair Furfaro: Each year.

Mr. Contrades: Yes.

Chair Furfaro: It is not two million dollars (\$2,000,000) after that each year?

Mr. Contrades: No, sir.

Ms. Yukimura: I see. I apologize for my error. So the two million dollars (\$2,000,000) was the cumulative amount over three (3) years. Does this include collective bargaining increases?

Ms. Perreira: Just fringe benefits.

Mr. Contrades: No, collective bargaining, we do not know what it will be. So we could not include that. That is the current base pay at this point.

Ms. Yukimura: Okay. I think I would like to know if you take an average in the collective bargaining increases and their cumulative to find out what that cost would be, because that would be the real cost.

Chair Furfaro: Excuse me, I have to get clarification, Steve, you just told me that the two million dollars (\$2,000,000) includes fringe benefits?

Mr. Hunt: Yes.

Chair Furfaro: So if you have this cumulative piece for three years, I assume it includes PT&E, the two million dollars (\$2,000,000)?

Mr. Hunt: Yes, we do not know what the collective bargaining portion is going to be.

Chair Furfaro: Which will be the annual increases that we have for the entire County?

Mr. Hunt: Correct.

Chair Furfaro: Okay.

Mr. Hunt: So it is based on current salary levels.

Chair Furfaro: But it includes PT&E.

Mr. Hunt: Yes.

Ms. Yukimura: And I guess I am asking, because even if it is put in a range of zero raises to top-level raises, what that would look like in terms of our ultimate costs. Could you do that for us?

Mr. Contrades: We can take a guess at what SHOPO is going to get.

Ms. Yukimura: I am talking about, you know what the proposal is, right? There is a proposal?

Mr. Contrades: I do not know what the arbitrator is going award.

Ms. Yukimura: You know what the unions are asking for right?

Mr. Contrades: I can get that number from them.

Ms. Yukimura: So taking that as zero, nothing approved to the maximum approved and give us a range of what those costs would look like.

Mr. Contrades: Sure.

Ms. Yukimura: Thank you. So what is CHP?

Ms. Perreira: That is the acronym.

Ms. Yukimura:

Oh, that is the Cops Hiring Program.

Chair Furfaro:

I am going to give you the floor and take one particular question and yield the floor to Councilmember Nakamura.

Ms. Yukimura:

You want to go ahead?

Chair Furfaro:

I just gave you the floor. Why does someone not follow my instructions and we will be good?

Ms. Yukimura:

Oh, I have one more question. Your grant application about community policing strategy. It says that COPS Office Grants must be used to reorient the mission and activities of law enforcement agencies through initiating community policing or enhancing their involvement with community policing. It also says minor changes to the plan may be made without prior approval of the office, but grantees will be required to report on progress or changing in the community producing plan through required progress reports. Can you tell us how because another beat is business as unusual and I am not sure how community policing is involved and my understanding of "community policing" is a bit limited, but my sense is it is about innovative approaches that will to help to achieve the goals of public safety in a more cost-effective way and more effective way, too and I am just wondering how you are planning to do that?

Mr. Contrades:

Community-oriented policing is actually at its base is the community and the Police Department working together to solve problems. It is something that we do as a Department every day. We work with many different organizations and community members to address their concerns but it is difficult for the Officers to do that when they are running from call to call all day long. When I first started we had the opportunity to get to know the community better and to work with them closely to address their concerns, but with the current levels and because of the lack of additional beats over twenty-four (24) years, the Officers spend their time jumping from call to call. And so what we hope to do with this is to yes, spread the amount of cases out to more Officers, but to provide them more time to spend getting to know their community, to addressing their concerns. One of the things that we had done in the past was walking the beat and going from business to business and getting to know the business owners and address their concerns. The Officers today do not have time for that, especially in the Kawaihau District, where we respond to call after call. I have received complaints over the years that it took your Officer over an hour to get here. Unfortunately, your call of theft that occurred two (2) days ago had to be prioritized lower than the family abuse that was in progress. Because of the lack of amount of people that we are on the roadway, we cannot spend that time truly getting to know the community and dealing with their problems. We would like to be proactive and address their concerns early, but at this point it is a matter of them calling and us responding and with the addition of a beat and in reality, we should be at the point of having five (5) or six (6) additional beats, but we with understand the budgetary constraints. With at least this one beat the workload will be better distributed and provide the Officers more time to being proactive.

Ms. Yukimura:

Thank you. As I hear you speak, I am thinking, you know, when you were the Captain on the North Shore...

Mr. Contrades:

District Lieutenant, yes.

Ms. Yukimura: Excuse me, District Lieutenant and the stories I heard indicated you were an amazing example of community policing.

Mr. Contrades: Thank you.

Ms. Yukimura: And your relationship with the community, do you have a measurement of response time, so that you would be monitoring that you do actually reduce the response time? And do you have goals with respect to response time?

Mr. Contrades: Well every case would be different. Again, it depends upon what happens. We cannot guess in terms of what calls will come in. We can monitor response times. Presently we do not. Hopefully with our new Records Management System, that will be a little easier. Right now it would have to be done manually and we have to check each case and see how long it took us to get there. So hopefully with our new system that will be a little easier.

Ms. Yukimura: Is that being programed into the system?

Mr. Contrades: I will have to check, but I was hoping it would be. There is a whole bunch of moving parts that come with the new system, but I would imagine with an improvement with that system, that could be done a little better than we could today. But you know, like I said, I had these complaints and I tried to address them, but the reality, it is not that the Officers are eating doughnuts...they have to prioritize their calls.

Ms. Yukimura: That thought does not even cross my mind. If you are saying that a new beat, that you want a new beat in order to reduce the response times.

Mr. Contrades: That is one aspect of it. That is not the entire thing.

Ms. Yukimura: That is why I would like to see...I mean I feel like even if you do not have the grant ready, there should be a two or three-page proposal for what you want to do.

Mr. Contrades: That is what we are working on is the proposal.

Ms. Yukimura: No, but when you come before us to ask us for this kind of commitment, I really would like to have a clearer idea of what your goals are. If lowering response time is not the only one, than what are our other goals and objectives for this?

Mr. Contrades: As I stated earlier, we just got this and Officer Perreira has been tasked full-time to put this together and we are in the initial application stage.

Chair Furfaro: Excuse me, remember, you agreed to have the question one more time and you are on your third question. I will come back to you.

Ms. Yukimura: Okay, very good. Thank you.

Chair Furfaro:

Vice Chair.

Ms. Nakamura: Thank you very much for your presentation and I think we were missing one page of your explanation and we just got that. So thank you for bringing us up to speed. I wanted to ask you, when is this grant due?

Mr. Contrades: June 4th. The next date is June 4th and originally I believe it was May 24th and we were scrambling to get this done in a timely manner, but it has been extended to June 4th.

Ms. Nakamura: What happens if you receive funding for less than seven Officers?

Mr. Contrades: Quite honestly, we will take whatever we can get. The more Officers we have, the better. They will be put into the Patrol rotation. And those Officers will be more helpful.

Ms. Nakamura: But you would not be able to create a new beat?

Mr. Contrades: No, we would not.

Ms. Nakamura: If you are lucky enough to get the seven Officers, what additional personnel needs would you have?

Mr. Contrades: Personnel needs in terms of?

Ms. Nakamura: To run a beat?

Mr. Contrades: Each beat requires six point five Officers, I believe, in order to create a beat, so seven (7). That alone would be how we would do it. What would be great is to have three supervisors and a District Commander to create the Kawaihau District, but you know, given the opportunity, I mean, we will take seven (7) and create that one (1) beat. And that will be supervised by existing supervisors unfortunately.

Ms. Nakamura: That is why I was just looking on page 2 of your letter dated May 20, 2013 that talked about the seven (7) Officers, three (3) Sergeants, and one (1) Lieutenant to create a fully working beat. Is that?

Mr. Contrades: Our District. The original intent, if the County had the money and we had the support for it was to create the Kawaihau District. It is the busiest District on the island with the highest population and we wanted to have a District Commander.

Ms. Nakamura: So there is no Kawaihau beat now?

Mr. Contrades: There are beats in Kawaihau, but it is not set out as its own District.

Ms. Perreira: It is not self-sufficient.

Mr. Contrades: You have the Hanalei District, which takes half of Kapa'a and the Lihu'e District which takes the other half of Kapa'a and we would like that to be its own District with its own supervisors and commander.

Ms. Nakamura: So long-term you want the seven (7) Officers, three (3) Sergeants, and one (1) Lieutenant that would make it whole district?

Mr. Contrades: Yes.

Ms. Nakamura: Okay. That is really helpful, just to understand, because I am not familiar with how the hierarchy works within the KPD. Do you have a log of complaints, citizen complaints by District?

Mr. Contrades: We have Internal Affairs type complaints, but just general?

Ms. Nakamura: Just general complaints? About why did they take an hour to come?

Mr. Contrades: That is something that I spoke about at the last community meeting that a lady spoke to me, but it is not written down or recorded anywhere. It is not an official complaint. Any official complaint is recorded.

Ms. Nakamura: Okay. Does the Police Department...do you do a resident satisfaction type survey?

Mr. Contrades: No.

Ms. Nakamura: Okay. I am just curious, because I think that would also provide data on where people feel services are lacking, or would like to see improvements.

Mr. Contrades: That is something that we had done many years ago, as a Sergeant I remember being tasked to pick certain complaints and go and see how well the Officers did and perhaps that is something that we can look at, that could be done online.

Ms. Nakamura: I would like to actually suggest and it really helps for grant applications like this. It would strengthen it. One of the things that I think the County, through the Mayor's Office is doing is a County wide satisfaction survey that is tied into the budget. But I would think that this would be a clear tie-in to that and would encourage the Administration to include this kind of data, as they are doing it. This is a little bit off course, but I believe that it is a tie-in.

Mr. Rapozo: I have one question, would it be possible to offer our Councilmembers the opportunity to go ride along with your Officers?

Mr. Contrades: Absolutely.

Mr. Rapozo: I think they need to see what these guys do, because I am getting really frustrated listening to some of these questions and it is not their fault, because they know what they know. I think it would be very important, for my colleagues to get in the Patrol car with your Officers, in Kawaihau, on a Friday night, Saturday night, Wednesday night, it does not matter anymore and

just take a shift. I would ask the Chief, if can you get the legal clearance and I do not know if the Attorney is going to tell using that we cannot do that either, but somehow, sign a waiver, whatever it is, to get them to go out and see what you actually do.

Mr. Contrades: We have a ride along program with waivers and all and you are more than welcome to come.

Mr. Rapozo: It sounds like this grant is getting more scrutiny, than I have ever seen and this is for public safety and I want to make sure that we understand what these guys and gals go through, because it is frustrating listening to the questions. Again, no offense, because they are asking the right questions because the application, obviously, you cannot put that on paper, really. The people that you guys deal with everyday are not going to write you a nice survey response. They are not. You will have a horrible rating. How was the Officer who arrested you for DUI? For family abuse? You are there an hour late and that person is not going to write a friendly letter. I think we understand and the guys who get the complaints, where the hell were you? They are the Sergeants or Patrol Officers that is not documented. I hear some complaints it took forty-five (45) minutes, an hour...really? Try to go to Los Angeles or even Honolulu and report a theft. This beat would be in Kawaihau?

Mr. Contrades: Yes.

Mr. Rapozo: So you would get three (3) guys covering the largest District on Kaua'i. Three (3)? Get more guys working at the hotel security than we have covering the whole Kawaihau District. We have increased every Department in this island and in this County and you guys are asking for one (1) beat, seventy-five percent (75%) funded for three (3) years. Anyway, I apologize for the passion, because I know it is needed. It was needed five (5) years ago, ten (10) years ago. We have an opportunity and COPS is not a new program. We have used COPS before and we have used this grant before. So I apologize especially to my colleagues because I do not want them to take this in the wrong way, but it is frustrating. Thank you.

Chair Furfaro: JoAnn, you have the floor again.

Ms. Yukimura: Thank you. I would love to ride along. I am sure that I have a lot to learn. And I probably have no idea what our Officers have to go through. So I will sign up as appropriate. I have got a wedding and a couple other things first, but I am not asking this question out of non-support for you. I think we have to, in our fiduciary duty to make sure that the money is used in the best way possible because we have such a limited amount of it and if we create the beat to make sure we can sustain it and I hope you do not interpret my questions as being against the Police Department, but I do feel that every Department, no matter what, those have a certain level of responsibility for telling this body what they are going to do with the money and how it is going to bring results for our community? So on the issue of supervisors, you know, using the question that the Vice Chair raised about not having a District or a beat?

Mr. Contrades: A beat is one (1) Officer that is assigned to a geographical area and a District encompasses numerous Officers and a supervisor.

Ms. Yukimura: Is not having a complete District and using your existing, you have above...you have your Officers and then you have a Lieutenant?

Mr. Contrades: A Sergeant and a Lieutenant.

Ms. Yukimura: So how many Officers? You have four (4) Officers and a Sergeant and a Lieutenant?

Mr. Contrades: If we add the additional beat to the Kawaihau District for now, until we are able to have a self-sustaining District, we have the supervisor in Hanalei will be responsible for the two (2) people in Hanalei and the two (2) people in Kapa'a. Or three (3) people in Kapa'a, sorry.

Ms. Yukimura: So it is not a matter of overtime, but oversight?

Mr. Contrades: Yes.

Ms. Yukimura: Your call for service, you mentioned have increased seventy-eight (78%).

Mr. Contrades: Yes.

Ms. Yukimura: Have you done an analysis of the nature of those calls?

Mr. Contrades: No. I mean we can do that, but the amount of calls...we are a full service Police Department so when people call, whether it is a lost property complaint or homicide, the Officers will show up to deal with that case.

Ms. Yukimura: Right.

Mr. Contrades: So any time that they are called to a certain case, whether it is a lost property or not, means time to drive there, time to investigate the case, time to write the report, and return to beat or deal with the next issue at-hand. Of course, depending upon the type of cases some will be shorter and some will be more involved.

Ms. Yukimura: Of course. Of course, but you would have an average time of response? That could be an indicator. I do not know if other Departments use it, but it is an indicator of your success. I mean like the Fire Department, they have a response time that they aim for within so many minutes of a call and I take it that is a portion of your goals, to reduce the response time?

Mr. Contrades: Yes.

Ms. Yukimura: But you will not know that you are reducing it unless you are really tracking it.

Mr. Contrades: It would have to be reduced, because you have more people able to respond to more calls. Right now you have a set amount of people responding to calls, and people have to wait in line. So again, we are able to do that. It is just a task to do so, because you have to sit there and review each case,

is to see when it came in? What the amount of time was when the Officer called off? And currently we do not have the software to do that.

Ms. Yukimura: Okay.

Mr. Contrades: That is something that we will look at, to see if we can figure out those times.

Ms. Yukimura: Chair, I am asking a stupid question, but how is that Kawaihau, which is the largest District did not become one of the major Districts from time passed?

Mr. Contrades: That is something that I would not be able to answer. I did not decide that and it was done many, many years ago. Just based on what I believe, you have Līhu'e which is your center of the island and you have Hanalei all the way on the North Shore and Waimea is the third and since that was established, the areas in between have never become its own Districts. We have five (5) judicial areas on the island and staff per se, with stations, three of them. Waimea will encompass Waimea and Kōloa Districts and Līhu'e again is Līhu'e plus half of Kawaihau and then you have Hanalei, which is Hanalei and half of Kawaihau. So I could not tell you why the decision was made.

Ms. Yukimura: Okay. So what kind of...I mean how will you manage the office space and the infrastructure support for this new beat?

Mr. Contrades: Currently we are moving into the Kapa'a Armory, which is much larger than the Kapa'a Station that we have had for many years and we will come before Council to move forward with building a Station in Kawaihau. Again, our goal in the future is to have a Kawaihau District Station, with the required staff. The Lieutenant, the three (3) Sergeants and its own personnel.

Ms. Yukimura: I think that is it. Thank you.

Chair Furfaro: Okay. Before I recognize anyone else, I want to let you know that I plan to amend the narrative here, but I want to share some facts with you that will require the Finance Director to be a little involved with you on look at this need for staffing a little different. So Vice Chair, you have the floor.

Ms. Yukimura: I just wanted to also say that I would be very interested in tagging along with one of your Officers through the Districts. And I also wanted to say that when I was working on the East Kaua'i Development in the early 2000s, I spoke to the Interim Chief Arinaga at the time who talked about the need for this beat in the Kawaihau District and all of years later the need is still there. The questions I am asking is to make sure that if we are going to do it, that we have the resources to do it well. And that it is going to make the impact that we are all looking for. So anyway, I just wanted to hope we can follow-up with that.

Chair Furfaro: Okay. So I want to give you a little overview of the staffing issue that we have, okay? In 1989, the overtime for the Kaua'i Police Department was two hundred fifty thousand dollars (\$250,000). When I got on the Council, I was the Finance Chair and the overtime in that year was seven hundred thousand dollars (\$700,000). Here we are, the budget we just approved, the overtime is one million eight hundred sixty-seven thousand dollars (\$1,867,000). So I want

you to be very careful when you say there is not growth in the Department, the growth occurs in the overtime, okay? But in that, you need to realize, if those Officers were working straight time, it is the premium pay we are paying them, Steve. So that the premium on one million eight hundred sixty-seven thousand dollars \$1,867,000 is five hundred twenty-two thousand dollars (\$522,000). That is the premium pay. Where we are actually having the incurred costs, but we are not having the Officers out on the beat. Because it is the same person and this grant would say at the end of four (4) years, we will be driving at about a five hundred eighty-one thousand dollars (\$581,000) additional payroll for this beat and you are getting at the point, that it is almost better to add straight time Officers than to continue to balloon the overtime. You know, I mean, the money is there. It is just being tied up in premium pay. Okay? So I think one of the goals that Councilwoman Yukimura probed you about should be tied to this financial picture and how do we get the overtime back down to something like one point three million dollars? So that the additional Officers grow on the five hundred twenty thousand dollars (\$520,000). That has to be a goal in this, you know? And it is not that the money is not provided, it is the fact that it is the premium pay that we are not getting the extra Officers on. So I would, and I need somebody to make this motion for me before we close this out. I would like to look for a motion that basically approves the application, but ask you to come back for the actual expenditure, once we know you have been successful or not? So we can look closer at this premium pay line.

I was going to recognize you, but what I am saying is that the Council Vice Chair, I cannot make that motion, but I would hope we can come to some agreement on that. Steve, I am sure that you captured the essence of my comment here, you know? We could have more manpower at straight time, if we had gotten the right people in place and eventually used that premium pay for additional straight-time staffing.

Mr. Hunt: You are correct, in that there is a nexus in both of those. At some point, overtime is cheaper, even though it is time and a half because there is not additional fringe added with staff, but when the premium pay kicks in at a certain leveling are makes sense to wring in additional staff and that is the management that needs to occur.

Chair Furfaro: It definitely makes sense. That is due to great recruitment efforts at the Police Department. I will give you the floor Councilmember Yukimura.

Ms. Yukimura: Thank you for the framing that you just done Chair. It helps me see how the budget is related to the program and reducing overtime is a great goal of this...could be a great goal of this proposal. I just wanted to ask about the community policing and thank you for the information, but we got it yesterday so we did not have much time to read it. As I see it, my question, I asked about analyzing calls for service as I look at "community policing" definition framework says...the definition of "community policing emphasizes the primary components of community partnerships, organizational transformation, and problem-solving." So related to the calls for service, if for example, the calls for domestic violence arising from domestic violence is one of your more time-consuming calls, than problem solving from terms of reducing those issues and that is why you have the partnerships because it may come in some other Agency's work, right? Like the YWCA, or even the Aloha Peace Project or your DARE projects which teach skills over time...over time, the more you get that in the community or in the culture arguably your calls would reduce. One of my questions is...how much...when I was

doing the parenting project, one of the questions was about juvenile delinquents and how much time do juvenile issues take for your Police Department and are there ways to reduce that problem from a community-partnership approach? Are you thinking about those issues as well and is it included in this grant or subsequent grants?

Mr. Contrades: I am not sure what answer you are looking for. The explanation that I was trying to give you was that the Officers do not have time to spend on these projects, these issues getting to know the communities and a lot of Officers volunteer their time for youth. Part of reducing juvenile delinquency is related to Officer involvement and we have KPAL. Are you asking about juvenile delinquency?

Ms. Yukimura: No, I am not. Forgive me for not being clear. I am realizing that I am not. In the programming with the past Prosecuting Attorney on the grants that she was proposing, some of which were about diversion. You know, we came into awareness of what the Maui Police Department is doing with its specialized juvenile unit and I am grateful to Mark Ozaki and those Officers who are spending volunteer time, but it is about targeted policing with respect to juvenile issues and I am wondering if your Department is seeing that. You used to have a juvenile unit and now you do not and it included both civilian and Police Officers?

Chair Furfaro: Before you start to answer, it is an important question, but it is not on the agenda today. I would like to say that we would be very much open to inviting you back to speak to community issues and I hope you understand, Councilmember Yukimura, good questions, but we have a really full agenda here today. We have eleven Executive Sessions, but we would like to invite you back for that.

Ms. Yukimura: It is just because this grant is about community policing and talking about innovative approaches. Thank you.

Chair Furfaro: So we would like to ask you back for discussion about innovative approaches and once you have the grant submitted and you set some goals and missions, you are going to have to come back to us if the amendment passes and that might be a good time to word this in such a way that we have a greater understanding of the mission and the goals.

Ms. Yukimura: Can we request that as soon as your grant is ready for submittal, can you send us a copy as well?

Mr. Contrades: Absolutely.

Ms. Yukimura: Thank you.

Mr. Perry: Can I just add one thing. I appreciate all the questions that have come forward. The concept of community policing is not the idea that Police have all the answers, because we certainly do not. The reason why we have the community policing concept is to reach out into the community and ask people what do you think are the issues? What do you think are the problems? How can we better solve your issues working together collaboratively? Not only with the community, but with the other agencies involved, as you mentioned the YWCA. So we will have all of that information for you in our next meeting and thank you again,

Council for giving us the opportunity to be here and to bring this information before you.

Chair Furfaro: We look forward to your next visit. Thank you, members, I would like to call for public testimony now. Thank you very much, Chief and to the Officer that prepares your grants, thank you very much, Officer Perreira. Thank you. Public testimony?

GLENN MICKENS: For the record Glenn Mickens and thank you, Jay and thank you, B.C. Just a short testimony, it appears to me that this whole issue of another beat is a matter of trust. When these Officers put their lives on the line every day to protect the public and ask for more help, I believe we should wholeheartedly support their request. I believe Deputy Chief Contrades said having sixteen beats would really help their enforcement mechanism, but he said they would take whatever our budget can handle, which is basically true. Unless as Mel said, we know exactly what the Officers go through, we cannot micromanage their duties or what the costs are. Yes, we do need, as JoAnn has pointed out, we do need to know of any waste in any of our operations, but if we trust the people that we hire, then we have to lean on what they ask for and give them. I believe our Chief is doing an outstanding job of managing these guys. If you see a wreck on the side of the highway you see at least four (4) or five (5) Police have to be there directing traffic and stuff. That leaves four of five Officers to cover the rest of the island. Anyway, I think they are doing their job and I hope that this grant goes through and they get their money. Thank you.

Chair Furfaro: Ken, do you want to speak?

KEN TAYLOR: Chair, members of the Council, my name is Ken Taylor. I first want to thank the Chief and his staff for being vigilant on being able to apply for grants when they become available. I think it is a very important part of their job but they are out on the line constantly, protecting the community and I think it is very important that their work continues. We know for a long time there has been a shortage of Officers in the Police Department and I appreciate all of the questions that each of you had today. I think these are very good, legitimate questions. But I do believe you have time to work them out and I do not see why there should be any delay in approving the agenda item as it is posted. With the caveat of work out the details that have been raised in the current questions. I think that could be done. I think it would give assurance to the Chief and his staff in moving forward to work even harder at resolving many of the problems and questions that you have been raised. It is safety in the community, is a very important thing, and I think it is something that everybody in the community wants to feel protected and taken care of. I think that this is the time for you folks to show the community, as well as our Police Department that you are one hundred percent (100%) behind them by approving the proposal that is before you today, with a caveat of working out the details. I know money is a difficult situation and all of that, but sometimes you have to step out and make the decision...tough decisions, that somehow we are going to work it out. I think the other part of it and it was brought up towards the end of the discussion was seven new Officers out there could possibly alleviate a number of overtime that could help to offset the twenty-five percent (25%) or at least a good portion of it, possibly.

Chair Furfaro: That is your first three (3) minutes.

Mr. Taylor: If the seven new officers offset the number of overtime that could offset the twenty-five percent (25%) that the County has to put forward on this grant, it reduces the new moneys that would be put into the operations. So I hope that you will consider moving forward with approval of this item as it is in the agenda and work out the details before December or the next opportunity comes up. I think this assurance to the community and to the Police Department, that we are, in fact, one hundred percent (100%) behind them and I think this is really important. Thank you very much.

Chair Furfaro: Thank you. Joe, are you planning to speak?

JOE ROSA: Yes, sir.

Chair Furfaro: It is not on yet, Joe. You got it.

Mr. Rosa: Good morning, members of the Council, for the record, Joe Rosa. A little thing going back to the past. When I was a little boy, young, growing up, we had a Police Station in every District, Hanalei, Kapa'a, Lihu'e, Koloa, Waimea. Today, a big town like Kapa'a, where the neighborhood center is right now, that used to be the Kapa'a Substation. I remember seeing the Officers walking their beat up to Kawaihau Road, where the former Councilman and former Policeman Louis Gonsalves used to walk the beat along with the Chief, Mr. Sheldon, or Captain Sheldon or whatever his rank was. They walked to where Pono Kai is. I think another place was the Koloa District where the Koloa Neighborhood Center is again. That was a Police Substation there. I think Koloa needs another station there because of the development in the Po'ipū area. Those are the kind of things that each District with their own table of organization as to what the need is...because I do not know if it is the same, but the Hanalei beat used to cover from the Moloa'a old road that goes down to Moloa'a Beach down to Hanalei Beach. From Kapa'a it was Moloa'a Road to Wailua River. Lihu'e was until Knudsen Gap. So those are the kind of things that they have to look into, because now we need it more than ever, because of population growth and tourist development in certain area. Where rise in safety is involved, that is where the money should be spent, not on marathons and things like that. Public safety is one of the valued things that I look at in work and whatever. So this County should get back all of those neighborhood center areas that they gave up from the old police substations, the land that they own. It is always the case, when they own something, they do something that is needed more so because of...well, they need the senior citizens, but also, I think public safety comes first.

Chair Furfaro: Joe, that is your first three (3) minutes.

Mr. Rosa: Well that is about it, because I am going to wrap it up and I will leave you with the thought that you should establish those substations, and organize each District with a table of organization of manpower, so we can run the Department smoothly without OT. I thank you.

Chair Furfaro: Thank you, Joe. I would like to call the meeting back to order and again, I am looking for a motion that allows us to approve the application, but requests a return visit before any of the expenditure is used.

There being no objections, the meeting was called back to order, and proceeded as follows:

Ms. Yukimura moved to amend the motion to approve application of the grant application only with subsequent Council approval required for acceptance and expenditure of grant funds, seconded by Ms. Nakamura.

Chair Furfaro: So nothing needs to be said on the actual acceptance and expenditure?

RICKY WATANABE, County Clerk: We have to take a vote on the amendment.

Chair Furfaro: I understand, the amendment should not say anything about the acceptance and expenditure amount, am I correct?

Mr. Watanabe: You are just approving with amendment and if the amendment pass it is the application only.

Ms. Yukimura: I want the word "only."

Chair Furfaro: That is what I am seeking, before spending, only.

Ms. Yukimura: Chair, if you want to be clearer, I can say "motion to amend to approve application only and not acceptance or expenditure of moneys."

Chair Furfaro: Yes. Until they visit with us?

Ms. Yukimura: I think that would be understood, that we are only approving application.

Chair Furfaro: Okay.

Ms. Yukimura moved to amend by approving the application only and not acceptance and expenditure with the understanding that they come back for further approval, seconded by Ms. Nakamura.

Chair Furfaro: I think that is what I said in the very beginning, but that sound goods and I appreciate someone making that motion. Do I have a second on that motion. Fine, now we have the discussion on the amendment, Mr. Rapozo?

Mr. Rapozo: I am not going to be supporting the amendment. I think we are sending a very ugly message to the community as far as public safety. Let me clarify one thing, Mr. Chair, you referenced the OT in 1989 and I was there. I will tell you what the difference was, up until 1989 we had eight beats and I ran Hanalei by myself, that was Sector 1 in Hanalei and I had all the way down to the Moloa'a fruit stand. If somebody called in sick, you do not have overtime, you ran a beat and you run a double beat and I got my butt kicked in Ching Young Village from a guy that I was arresting for assault. That is what happens when you do not have enough people. I heard about response times, I heard about savings in overtime, but one thing we never heard about is Officer safety and how is that? That is frustrating. It changed when we finally got the union is to say we need more people. It is not safe for the Officers. It is not fun getting beaten up for one thousand five hundred dollars (\$1,500) a month, that is what we got paid

back then and it is still happening today. It is still happening today. OT is cheaper. What about the cops working seven, eight, nine days in a row because they have to? They have no personal life and they are suffering at home with their personal lives because they are working. What about that? Community policing, I believe the Deputy Chief said it, even with seven more cops you will not be able to have them walk the beat. JoAnn is asking goals and objectives, what are you going to do? Well, number one on the list should be Officer safety and who cares if somebody has to wait two hours for a theft report the cops are tied up? I was at the hospital with my nephew being treated for an accident and three Officers and the lady who had some mental issues and one left with the lady, who was having some difficult time and that cop with that woman in the room cannot be called to anywhere unless they release that lady. The public suffers. Not the cop. He is getting paid. The public suffers. Ten beats for this island is way overdue. Do a comparison and not that I am diminishing the role of the Fire Department, but count how many Fire Stations we have? This Council has supported the Fire Department over all the years and we are going to get grants to build the station and I do not remember having the discussion how do we pay for it after the grant expires? Not long ago, a week or two ago we told the Chief of Police how wonderful you are doing and how we are going to help you and this is an opportunity...I will read these...I choose this one because this is Councilmember Yukimura's Committee, the Transportation Committee and I will read off the grants that we have applied, received, indemnify, and expended. "\$925,000, \$136,000, \$554,680, and \$10,855, respectively, this is just three years. \$632,833 and \$1.1 million, \$589,394 and \$10,795, respectively, \$268,840, \$975,000, a million dollars." These traditionally get approved like that. All with the approval, acceptance, and expenditure. We did not ask how much is it going to cost us after we buy the bus? How much is it going to cost in fuel? What about employees? Are you going to need more employees? We never did that. Came out, motion to approve and called transportation up here and said you are doing a wonderful job and we just love what you have done with bus system. Approved. 7:0. We spent what? Got to be almost two hours, hour and a half pounding the Department on questions, what are you going to do? He said we are going to have another beat. That is what we are doing to do, create another beat and that beat is going to be no different than any other beat, we are going to do community policing if we have the time. We are going to ease up on some of the Officers' issues and safety and increase Officer safety and we are going to improve on giving the cop another day off to spend with his family That is what this might do. That is what it will do. I got to tell you, I am really disappointed that we are even going to treat you differently than any other Department that comes up here asking for a grant. I cannot remember and it may have happened, I have a short memory. I cannot recall when we will approve the application, but not the acceptance and expenditure. It may have been with the Prosecuting Attorney's because there were issues. Traditionally, a grant comes up and we just approve it. I do not know how many hours it is going to take you to do this application but it is going to take a lot for this application and you are not free. Thank you very much Stacy, they are lucky to have you and I agree with the Chair. You just got on. You are a rookie and yet you have been tasked with this very important job. The other thing is let us say in three years, we cannot afford it, whatever the case may be. I seriously doubt it, but say in three (3) years you cannot afford it. You take three vacancies in your Department or the seven (7) vacancies in your Department, because you always have vacancies, whether it is Patrol Officers or civilian staff, you take your seven officers and merge them into the Department. It is not going to be seven hundred thousand dollars (\$700,000) plus because you utilized vacant positions and the excess we would fund. I will support the application, but I want to vent my frustration, you guys are being treated a little different with this application and it concerns me. Thank you.

Chair Furfaro:

JoAnn.

Ms. Yukimura: I want to say that the Department of Transportation...our Transportation Agency has a long range plan that is laid out, whenever they come to us for grants, the grants are before us. And they can explain what they want to do and what they want to achieve. So this is not treating the Police Department differently than any Department and to me it is asking them to come forward with the same kind of documentation and clarity about goals and objectives and what the grant will achieve. Now, the reason why I did do extensive questioning about community policing, because as Councilmember Rapozo himself pointed out, even if we add one more beat fully as a District, we are still not going to be able to address the issues. We have the problem of a very spread out community, and a low-level of population as compared to other places. So we are asking a small population to support a very spread out operation. It is very expensive. In Davis, California, where they have the same population, but they are...I do not know six (6) square miles or very smaller area than five hundred (500) square miles. They do with two (2) Police Stations for the same population that we have. So our circumstances require a lot more creative thinking in terms of how we deliver services because it is a more expensive format with a smaller population. So that is why I am asking for some creative thinking along these lines and my example is the Parent Project, which was started by a cop and when they taught the parents...when they taught the parents how to deal with their juvenile children, the number of calls from fifteen (15) households, which dropped from sixty (60) calls a month, dropped to five (5) calls a month to the Police. So that reduced the number of calls to the Police with this Parent Project and that is the kind of thinking we will have to do. I am not saying it has to be in substitution of a beat. I think there has been a good case made for a beat, but I do feel like we are owed a long range plan and some creative ideas about how you are going to deal with policing. That we cannot do it as usual, which is just to keep adding beats. That is why I am requesting the Police Department to look at those ways. Because in the long-range, I do not know how we are going to address all of the issues just by adding beats.

Chair Furfaro:

Vice Chair.

Ms. Nakamura: I will be supporting the motion and I just wanted to point out, that sometime recently, in the past year, the Fire Department came up with a similar grant requiring long-term commitment of funds and County matching funds and after so many years the County would pick up the additional cost of the bodies and I know we had a full discussion on that. I think in the end, we deferred it, and I do not know if that ever came back to us. I think this is part of our responsibility and fiduciary duty and I will be supporting this grant.

Chair Furfaro:

Mr. Hooser, are you fine before I speak? Okay. Chief, I want you to know that I take my responsibility very, very serious here and fact of the matter is that after the budget process, despite what other people might say that we have all of this surplus money, we do not have. We have fifty-four thousand dollars (\$54,000) left in this year's budget. That is it. I would like to say that I am really sensitive to your needs, you know? I have a nephew that is on the Honolulu S.W.A.T. Team and I have other nephews that practice law about public safety and you will certainly know when I said we will be revisiting this in December, we will have a real clear picture from our CAFR. Without touching our emergency reserve, I think it is only fair and reasonable that we ask you when you get through the application process you come back to us. I think it is the responsible

thing to do when we only have fifty-four thousand dollars (\$54,000) in the allocated budget that is being voted on. I certainly feel there will be money there and I certainly feel it is good for you to move through the application and get us a copy of that application. So that we can have a thorough discussion in December after we see the CAFR and I will be supporting the amendment. I will certainly be returning an agenda item in December so we can have more discussion. I think there was some good topics covered today about community policing that came up, and they are worthy of another visit to the Council. So on that note, I have a motion and second. Could I have a roll call, as amended, please?

Mr. Watanabe:
amendment, Chair.

First of all, we need to take vote on the

The motion to amend by approving application only and not acceptance and expenditure with the understanding that the KPD come back for further approval was then put, and carried by the following vote:

| | | |
|-----------------------|-----------------------------|------------|
| FOR AMENDMENT: | Nakamura, Yukimura, Furfaro | TOTAL - 3, |
| AGAINST AMENDMENT: | Hooser, Rapozo | TOTAL - 2, |
| EXCUSED & NOT VOTING: | Bynum, Kagawa | TOTAL - 2, |
| RECUSED & NOT VOTING: | None | TOTAL - 0. |

The motion to approve as amended was then put, and carried by the following vote:

| | | |
|-----------------------|---|------------|
| FOR APPROVAL: | Hooser, Nakamura, Rapozo, Yukimura, Furfaro | TOTAL - 5, |
| AGAINST APPROVAL: | None | TOTAL - 0, |
| EXCUSED & NOT VOTING: | Bynum, Kagawa | TOTAL - 2, |
| RECUSED & NOT VOTING: | None | TOTAL - 0. |

Chair Furfaro: Chief, thank you for the time today and your staff. I think we have housing people here that were expected to be here at 11:00 a.m.

Mr. Rapozo: Mr. Chair, is it okay to take a caption break right now?

Chair Furfaro: Sure.

There being no objections the meeting recessed at 10:58 a.m.

The meeting reconvened at 11:17 a.m., and proceeded as follows:

Ms. Nakamura: Can we have the Clerk read the next item?

C 2013-193 Communication (05/06/2013) from Jennifer S. Winn, Deputy County Attorney, transmitting for Council information the Quarterly Report on Settled Claims Against the County of Kaua'i from January 1, 2013 through March 31, 2013: Ms. Nakamura moved to receive C 2013-193 for the record, seconded by Ms. Yukimura.

Chair Furfaro: Thank you. On that note, I will suspend the rules.

There being no objections, the rules were suspended.

Ms. Nakamura: Jennifer, you have the floor. Thank you for being here.

JENNIFER S. WINN, Deputy County Attorney: You are welcome. By Resolution, our Office sends to you every quarter a list of the settled claims, that is what is before you right now. I am happy to answer my questions. Ms. Rapozo was here earlier, but she saw that Housing had come. If you have any questions for her, I can call her.

Chair Furfaro: Go ahead, Vice Chair.

Ms. Nakamura: Jennifer, I want to thank you for this concise report, outlining the different claims, and the actions taken. Thank you very much.

Ms. Winn: You are welcome.

Chair Furfaro: JoAnn, no questions? Thank you very much for being here and the work that you did on the quarterly report as requested.

Ms. Winn: Thank you.

There being no objections, the meeting was called back to order, and proceeded as follows:

Chair Furfaro: Thank you very much. Is there anyone who wants to testify on this agenda item?

There being no objections, the rules were suspend to take public testimony.

There being no one to give testimony at this time, the meeting was called back to order, and proceeded as follows:

Chair Furfaro: We have a motion to receive and second. All those in favor, signify by saying aye?

The motion to receive C 2013-193 for the record was then put, and unanimously carried.

Chair Furfaro: Thank you very much. Let us go to the scheduled Housing item that we set on or about 11:00 a.m.

There being no objections, C 2013-203 was taken out of order.

LEGAL DOCUMENTS:

C 2013-203 Communication (05/03/2013) from the Housing Director, recommending Council approval for site control of the following Vitus Development, LLC, related to the Rice Camp Senior Housing Parcels, TMK: (4) 3-6-4:9 and TMK: (4) 3-6-9:1:

- 1) Establish Site Control for Vitus Development, LLC (Low Income Housing Tax Credits (LIHTC) financing requirement)
- 2) Right of Entry Agreement (to conduct pre-development work)

Ms. Yukimura moved to approve C 2013-203, seconded by Ms. Nakamura.

Chair Furfaro: Thank you. Motion to approve and a second.
We have guests here.

There being no objections, the rules were suspended.

KAMUELA COBB-ADAMS, Housing Director: First of all, I want to thank the Chair and Council for allowing us to schedule this opportunity. With that, we are Makani Maewa, Vitus Group, who is the developer that was selected by the Housing Agency is here. We thought she could give you a update as to the progress of the development of Rice Camp and answer any of your folks question. So, with that, if it is okay with you Chair, I would like to turn it over to Makani.

MAKANI MAEWA, Director of Vitus Group: Good morning, Chair. Thank you for giving me the opportunity to speak and Councilmembers. Vitus Development is please to be involved in this. Vitus Group has been selected by the County in response to their RFP for the development of the Rice Camp parcel. We have schematic design as part of the initial development and we have moved forward with the initial financing structure. We are anticipating that we will submit a tax credit application for the financing of the project in June, mid-June, so in about a month. We have secured debt through Citi Bank. So, we have a term sheet and we have three (3) investors for the tax credit. So, from the financing perspective, we are moving along on track and on schedule. We are now asking for the right-of-entry so we can continue on the with the design, the civil design, and the architectural design of the property. We will need right of entry for some of the typography work and the physical work that will be going on. The contractor that was selected in conjunction with our proposal was Shioi Construction and they are working on pricing and design partners who is the architectural firm that recently completed the Pa'anau project is also on our team. We have, I think, a very qualified team who are all motivated to move forward on the project. The financing will – applications will be submitted in mid June as I had said and then a selection from the Hawai'i Housing Finance Development Corporation will happen in about October. After which time we will be able to close on transaction and begin construction in January of 2014. All going well. We are moving along quickly and we do not anticipate any problems at this point in time.

Let me just tell you a little bit about the project as proposed. The project and you have some information on it, it will be for seniors. There are sixty (60) units and the sixty (60) units are designed as one (1) and two (2) bedroom units. The rents are

set at about forty percent (40%) of the median enveloping which will really keep the units affordable and the rents are five hundred twenty-five dollars (\$525) a month. There is a combination of one (1) and two (2) story in the lot closest to Rice Camp. So, you will have some higher density in the areas that are naturally more commercial, lower density, more plantation style in keeping with the history of the site of the areas further away from the Rice Camp corridor. We have designed it and we will keep in mind the plan for Līhu'e Town Core and we will be moving through and working with Kamuela and his group to refine the further design. If there are any other questions, I am happy to answer.

Chair Furfaro: Makani, let me ask you, there is not a small, limited group of single senior studios?

Ms. Maewa: There will not be senior studios. In fact, in our housing, we have seen that seniors, if they can, they would rather have a one (1) bedroom. Studios are something that people in our portfolio and sort of across the market we have seen that they choose only because it is a less expensive option. So, we prefer to build the one (1) bedroom and in fact, we have seen a trend for aging in place or for couples who would like to have two (2) bedroom units. We have allocated a percentage that are two (2) bedrooms so that if you would like to stay there and age in place and have a caregiver, that is something that the design is incorporating.

Chair Furfaro: Well, that trend is changing.

Ms. Maewa: Yes.

Chair Furfaro: Thank you. Questions, members? Vice Chair.

Ms. Nakamura: Do you have any community space plan in this facility?

Ms. Maewa: Yes, we do. We have a central community facility. It is about scheduled for one thousand six hundred (1,600) square feet, although it may grow a touch. That area will have a community gathering space. It also will have on-site offices so that we can do all of the tenant lease. Through the Tax Credit Program, there is some income verification that is necessary. We will have on-site staff. There is also a maintenance room adjacent to that – actually as part of the community facility and laundry rooms. Within the community facilities, there will be a part-time Social Service Coordinator to help the seniors to communicate with Agencies and services that are already available here and then also to organize social service programs there on-site that they can take advantage of. It is a part-time position that is funded through the operations.

Ms. Nakamura: That is wonderful to hear. Anything that is promoting aging in place, I think, is great I think in the long-term for this community. What is the competition going to be like this year for those tax credits?

Ms. Maewa: Well, we will not know what the tax credit competition looks like until everybody submits their applications and even then, it is a little – you can look at the historical numbers and you will see it is a 7:1 application to credits available. We feel that we are very competitive this year because this project, there is say new allocation plan out this year I should say. The scoring system is entirely different than what it has been historically. But the

County Housing Agency has done something which is going to move this project in Kolopua, I believe, ahead of some of the others and that is they have dedicated their HOME funds and put their HOME funds behind these two (2) projects. In that way, they are leveraging their resources and that is a resource that other Counties will not necessarily have. I think we are going to be very competitive and we are working hard on feasibility and getting all of the construction, utilities, all of that out of the way so we really score high on feasibility points. But typically it is 7:1. It is an oversubscribed program. But readiness is important and County support.

Ms. Nakamura: Right. You anticipate two (2) tax credit applications from Kaua'i this year?

Ms. Maewa: That is correct. We will submit two (2) nine percent (9%) applications from Kaua'i this year.

Ms. Nakamura: Good luck.

Ms. Maewa: Thank you.

Chair Furfaro: JoAnn, you have the floor.

Ms. Yukimura: Thank you. Makani, can you tell us how you are addressing energy issues there?

Ms. Maewa: The design of the project anticipates that we will put photovoltaic panels on the roofs. We are going to use inline hot water heaters. The question now is whether there is gas or electric. But we have, at the source, hot water heaters for water heating. Somebody may ask about solar heater. We stepped away from that because we find that it is more efficient to fill the roof with photovoltaic and to offset the electrical in that way rather than the solar hot water so we are going to do the inline in that. The windows will be low emissivity and the general green features that will be incorporated are of course, the recycled flooring content, low or no VICO paints, and we will be using recycled insulation in the walls so it is an eco spec. We really look in every way we can to make the project green and energy efficient.

Ms. Yukimura: Residents will – this rent of five hundred twenty-five dollars (\$525) per month, does that include the energy costs or do they pay utility costs on top of that?

Ms. Maewa: They will pay their own utility costs. Ultimately, after we get the budget from contractor, we will determine whether or not we have room to put photovoltaic to offset some of their electrical. At this point in time, we are anticipating that it will be common area and they will pay their utilities.

Ms. Yukimura: Oh, the photovoltaic is just for the common area.

Ms. Maewa: Yes.

Ms. Yukimura: Wow.

Ms. Maewa: It is an important factor because if the common area operating expenses are higher, than I have less debt and so the rents have to go up. It is an indirect route, but it also saves the residents on their rent because I will not have to charge higher rents. Their monthly expenses at this point in time, they will be responsible for. But we are addressing that because we do have the inline hot water heaters and other thing I did not say was low-flow fixtures. So, we have the thirteen point one (13.3) gallon or one point one (1.1) gallon flushable toilets and we will have the low-flow faucets and showers.

Ms. Yukimura: This is an agreement between the County and your group, Vitus, to manage this project over a period – who is going to manage?

Ms. Maewa: No. The management is going to be EAH and EAH will be the third party management company. We will be the developer and the long-term owner of the property. We will lease the land from the County and in that way the County can maintain long-term affordability and EAH will do the on-site management. EAH already manages, I think, one (1) property for the County and they manage other property here on Kaua'i for us, the Kekaha Elderly in Kekaha.

Ms. Yukimura: I have some more questions about solar water heating it is lessens the bills for residents. But we will talk about that later.

Ms. Maewa: Actually, I pay for the water. So, it does not.

Ms. Yukimura: They do not pay for water?

Ms. Maewa: I pay for the water usage. I can give you the utility breakdown.

Ms. Yukimura: So utility – residents will not be paying directly for water costs, is that what you are saying?

Ms. Maewa: That we pay for the water, that is correct.

Ms. Yukimura; Walk ability, is there some thought about how seniors will walk from the project onto Rice Street safely?

Ms. Maewa: Yes, the architect is now working on two (2) types of walk ability of course, walk ability within the property in terms of exercise and those paths. So, they are refining those sidewalk paths and then we were just working with Planning as to what kind of path of travel will take them to Rice Street. We are aware of it and we are working through. I cannot tell you that we have a perfect plan right now. But absolutely at the top of the list of items that we are refining as we work through architectural.

Ms. Yukimura: Now all we need is a grocery store.

Ms. Maewa: Grocery store?

Ms. Yukimura; But that is not your *kuleana*. Let me just thank you and the Housing leadership for this project. It seems like it was only a few months ago that you bought the land and put forth this vision. Now we are

looking at starting construction in January of next year. It is a really fast timetable and really wonderful work.

Mr. Cobb-Adams: I wanted to point out one thing that she went over and highlighted because the rents are priced at affordability for forty percent (40%) of the median income. But the qualification is sixty percent (60%). So, that is great because you are saving a lot on rent. I mean, the Tax Credit Program, they could go up a few hundred more dollars monthly on the rent. But they are keeping the rent as low as possible and part of the reason why that can happen is because of efficient operation plan and budgeting that Vitus has proposed. There is an offset. I know you alluded to the costs for electricity. In this case the design, we are offsetting the cost of the actual rental, the rents, keeping those low and yes, they might have to pay some electricity. But the value in that, it encourages the people who use there to use less. They could actually lower that themselves by using less. But you cannot lower your rents every month by certain behaviors. I thought it was a unique way of addressing it and it is different. But there is some value in it if you look at it from that perspective.

Ms. Yukimura: My question is how long does the rent stay at those low rates? What are the mechanisms for raising and what controls over the owner? Although, the cap is at the sixty percent (60%), that is something that you are bound by?

Ms. Maewa: That is correct.

Ms. Yukimura: For the length of the tax credits?

Ms. Maewa: For sixty-one (61) years, yes.

Ms. Yukimura: And then after that, we are still going to have it be affordable?

Mr. Cobb-Adams: It will be up to the County at time who is going to be the landowner. I am assuming in sixty (60) years whoever is here is go to be doing that same thing we are trying to do.

Mr. Bynum: I will not be here.

Ms. Yukimura: The price of housing and land will be really high sixty (60) years from now. Thank you.

Chair Furfaro: Kamuela, I want to make sure I understand this. The income range is set at the sixty percent (60%). The rent range is set at the forty percent (40%), but does not include the utility factor at all because they will pay for their electricity and you will be covering the water?

Ms. Maewa: Yes. We pay the water. Correct.

Chair Furfaro: The water for the common area and the units?

Ms. Maewa: No. We pay the water for everyone, water and sewer for everyone.

Chair Furfaro: I just want to remind us of that because my work with Habitat, when I was President, we qualified people by their income and their nets had to be the range plus utilities. But this is only plus. There is no choice for gas here, right? Gas utilities? Is there a choice for gas?

Ms. Maewa: We have considered gas. I do not know whether we have settled on whether it is gas or electric especially because gas and hot water hearts heaters are so much more efficient. But I want to stay away from seniors and gas stoves. We have not had good experience. So, we would not use that for the appliances.

Chair Furfaro: Let me ask on the low-flow toilets, have you been able to find a product that has an improved flow versus the air compression that makes so much noise and rattles the apartment next door?

Ms. Maewa: I do not know about the noisy air rattling. The complaint that I was anticipating was does it flush and if it is only one (1) gallon, do you have to push twice anyway? We have quite a lot of – we have eight thousand (8,000) apartments and so we are always working through getting the best. We do have some good varieties and it is actually American Standard Cadet 3 or if we can afford it, we do the Toto. We do a lot of research on the toilets and long-term maintenance.

Chair Furfaro: It sounds like you are well aware of it. If you want to see what I am talking about, you can flush the toilet at Convention Center and you will hear the water compression and air right in the middle of the conference.

Ms. Maewa: Oh, it is a rear loaded toilet.

Chair Furfaro: It is relatively embarrassing. But more importantly for the seniors, it sounds like you have a handle on past experience.

Ms. Maewa: Yes.

Chair Furfaro: Members, any more questions? Mr. Hooser, you have the floor.

Mr. Hooser: Just a real brief question. It sounds like a wonderful project. How will it be determined who—is it first come first served? Is there a waiting list? I know there is income qualifications, but how is it determined or if someone was interested in this, how would they get on the list? What is the process for that?

Ms. Maewa: Well, we will restrict the marketing to local marketing first. Our intent is to try to serve the residents of Kaua'i. It is typical we will have EAH do local marketing here on Kaua'i. We will send it to the Housing Department and then we have as part of our Tax Credit Application, we will notify people on the housing wait list for Hawai'i Public Housing Agency and the Department of Human Services. So, we will notify those two (2) areas. We will also reach out to the Department of Elderly Services and Aging Department. So, we will do that to try to target them. We cannot, say for example, say it is only for people from Kaua'i. It is easiest for them to see it. It is easiest for them to anticipate. We will start a marketing campaign about ninety (90) days before we can occupy and let

people know and start accepting applications. But in general, we will keep the marketing local so that we can focus on local respondents.

Chair Furfaro: Thank you. Any more questions? JoAnn.

Ms. Yukimura: In terms of the comfort level of the units so that air conditioning is not required or desired, has there been attention paid to ventilation?

Ms. Maewa: Yes, the buildings are situated to take advantage of the prevailing winds. I have a Wind Study and I could show you the wind traffic through. In fact we just relocated the window above the sink so that there is an air flow throughout the entire unit. Then they have ceiling fans, but it is not anticipated that they will have air conditioning or that they will desire air conditioning.

Ms. Yukimura: I appreciate the thought that has gone into that. I have not heard of wind studies done too often and I am glad that you are doing that. Thank you.

Chair Furfaro: Members, I just want to get some clarity here, while we have Housing here, we are going to deal with Legal Document 202 as well as Legal Document 200?

RICKY WATANABE, County Clerk: Yes.

Chair Furfaro: Will they involve Makani?

Mr. Watanabe: No.

Chair Furfaro: Any more questions for our guest? No? If not, thank you very much.

Ms. Maewa: Thank you.

Chair Furfaro: Kamuela, we are going to have you step aside. Is there any public testimony? Yes, there is public testimony.

KEN TAYLOR: While I am in support of this project, I do have some real concerns that we are missing an opportunity. This particular location is back off the main street. It is located relatively close to downtown Līhu'e. I think we are missing an opportunity to have higher density and I was really disappointed when I first saw the plans for one (1) or two (2) story facility here when it should be three (3) or (4) four stories. Unfortunately, in the Līhu'e Core Plan project, they add some housing to the core plan area. But from what I have seen in the past, inadequate amount of housing for the core plan. This is an opportunity to build that density or at least on this project into this particular location and site. We know the County is working on another housing project that is way out in 'Ele'ele which should be. It should be in the Līhu'e area also. But I think it is important that we move forward with affordable housing. We know it is needed. We know we are way short of what is needed. This is an opportunity that if we continue down the existing path, we lose the opportunity. I would hope in your final decisions you would agree to move forward with the project, but at higher densities. Thank you.

Chair Furfaro:

Thank you, Ken. Mr. Rosa.

JOE ROSA: I am not opposed to any kind of housing for the elderly. But I do not hear anything mentioned about the sewer system which is a thing about controversy because I know the housing in Hanamā'ulu near King Kaumuali'i School and the project is on hold because the capacity of Līhu'e sewer plant is at its max. They are working twenty-four (24) hours / seven (7) days a week and how do you put a housing area in that area and no sewer expansion? You folks are already set, go, and fire. But think about sewer. The sewer plant has been overcapacity. Like I was saying, they are going twenty-four (24) and then to expand it, all of the sewer tax payers in the Līhu'e area would have to have their sewers raised because every time there an expansion of some kind, we sewer users get hit with it. It is not the whole island that is on sewer. You have the Houselots area and Homestead areas, they are all illegal with cesspools and yet here we paying our sewer fees that is over one hundred dollars (\$100) and every time as I say, when they do anything with the sewer plants, the sewer owners are hit with it. That is not fair. Let us be realistic, that sewer plant is going to generate how many more people on the sewer system? So, that will cause a problem. Our sewer plant is not able to take it because like as I just said, they deferred to Hanamā'ulu housing there also that people wanted to develop. They said at the time, that is why I even mentioned, you do not come back to Līhu'e town and dig up Līhu'e town. Just take it down Kapule Highway. You have Kapule Highway now and you need one (1) pump station to get it up to the plant instead of coming all the way through Līhu'e town, put one (1) pump station down Kapaia and a lot of times I hear the bell going off on top of the hill so we have a nice green valley with (inaudible) trees over there. Those are things that maybe you Councilmembers are not aware. But think and look around before they start doing developments. I did not hear solar mentioned once even in the assessment of the fees or the rent that they are going to pay. There is a sewer fee involved and we pay and so why should everybody else not be paying that sewer fee? It is only being fair. I am here just to see everybody has a fair share of everything. Like the people out in the public always see me, you are our spokesman. We always hear you and understand where you are coming from.

Chair Furfaro:

Joe, that is three (3) minutes.

Mr. Rosa: Yes. But that is why I just said I am here. I think that Rice Camp should be put on hold until you solve your sewer plant problem because go and check on it, it is at the max. They are there twenty-four (24)/seven (7) so before the go ahead goes, check on your sewer plant before it gets to be a problem and you are going to get spillage. That spillage is going to go right into Kalapakī Bay. Thank you.

Chair Furfaro:
would wishes to give testimony?

Questions for Joe? Is there anybody else

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Chair Furfaro: Gary, I believe we have additional questions for you and Makani. Kamuela, you can come too. I just see here signaling here. Can I tell you something? You did a very good job because I did not call you and at this meeting I give directions. But at the request of the Councilwoman, she would like to have you here as well. JoAnn, you have the floor.

There being no objections, the rules were suspended.

Ms. Yukimura: The two (2) public testifiers raised questions that I would like answers to. One is about density and I am thinking R-12, but what is the density?

Mr. Cobb-Adams: We have this discussion. It is R-20. The site is zoned for eighty-four (84) units. We actually talked about this just this morning with Planning. The first phase, there are two (2) strategic reasons why we went with sixty (60) units. There are water meters and we have been working with the Water Department. Water is actually the biggest issue in Līhu'e. We have checked on the circle pass and it has sewer. There are facility charges that the developer will be paying for the capacity. But the existing water meters, if we get our transfer and consolidations of the meters, we should have the source available for sixty (60) units. So, that was one of the main reasons why we went with sixty (60) and there is a Phase 2. In that Phase 2 we just met with Planning and based on lot coverage, that Phase 2 can actually exceed twenty-four (24) and we are not sure exactly what the number is. But we can exceed it and possibly go higher on that parcel to go beyond the eighty-four (84) units because of the Līhu'e Town Core Plan. But that second phase is the one that is going to be on hold because the water issues there. But it is our understanding from meeting with our Wastewater Division, that we have capacity and the way to get that is by paying a facility charge.

Chair Furfaro: The Līhu'e plant, JoAnn, has at least forty percent (40%) of its capacity still available. It is the water issue that is more pressing.

Ms. Yukimura: The limiting factor. It is a very excellent answer and I appreciate the explanation. So, that your actual density will be R-20 or R-15 thereabouts?

Mr. Cobb-Adams: If we went with eighty-four (84), the current plan which would be phase 160 and phase 224 would max out the density. But because the Līhu'e Urban Core plan and we just met this morning, they feel that that will allow us to increase the density to a higher density with our Phase 2. So, we just met this morning.

Ms. Yukimura: Right.

Mr. Cobb-Adams: So, we have to go and evaluate what that number is.

Ms. Yukimura: Right, and you may want to see how the first phase operates and then think about how the second phase would integrate into that.

Mr. Cobb-Adams: That was another benefit of going with sixty (60) to ensure that we fill up those units and make sure that the demand is there.

Ms. Yukimura: Which is our pattern from Kalepa, right? Where we built it in increments. The other question is about utilities, are you paying for the sewage cost as well or is that part of the utilities that renters have to pay?

Ms. Maewa: No. We pay for both. We as the owner pay for the whole property, the sewer, and the water. The water and the sewer is our obligation. The residents themselves pay for their electricity and they pay for their telephone and their cable. We pay for the water and the sewer so they do not pay for it.

Ms. Yukimura: Residents pay for electricity and possibly gas if you decide to go for heating water with gas?

Ms. Maewa: Correct.

Ms. Yukimura: But that would be all in terms of the utilities that they would be responsible for?

Chair Furfaro: And cable television.

Ms. Maewa: And then cable television or telephone, if they have two (2) those things.

Ms. Yukimura: Right. Thank you.

Chair Furfaro: Are you good, JoAnn?

Ms. Yukimura: Yes, I am. Thank you.

Chair Furfaro: Thank you. Thank you again for coming up. I have two (2) more Housing items. I have Steve here for a Finance item. I would like to get a motion to approve this item.

There being no objections, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2013-203 was then put, and unanimously carried.

Chair Furfaro: Thank you very much. To those in the audience, I would like to take the two (2) legal items that are in Housing first since you gentlemen are here. Then I would like to go to Steve on the receiving of the forecast County revenues. That takes us to Legal Document C 2013-200, followed by C 2013-202.

C 2013-200 Communication (04/01/2013) from Fay Rapozo, Homebuyer Coordinator, Housing Agency, recommending Council approval of the Release and Cancellation of Ho'okena Resale & Occupancy Restriction and Restrictions on Sale or Transfer, and Use for title insurance purposes for Unit No. 407, Ho'okena at Puhi.

- Release and Cancellation of Ho'okena Resale & Occupancy Restriction and Restrictions on Sale or Transfer, and Use

Ms. Yukimura moved to approve C 2013-200, seconded by Ms. Nakamura.

Chair Furfaro: I have a motion and a second. Are there any questions for Housing? Rules are suspended. Gentlemen, let me see if anybody wants to speak in the back?

There being no objection, the rules were suspended to take public testimony.

There being no one to give testimony at this time, the meeting was called back to order, and proceeded as follows:

Chair Furfaro: Seeing no one, stay right there.

The motion to approve C 2013-200 was then put, and unanimously carried.

Chair Furfaro: Let us go to 2013-202.

C 2013-202 Communication (05/03/2013) from the Housing Director, recommending Council approval to execute a 10-year lease of the Historic Waimea Theater to the West Kaua'i Business and Professional Association (WKBPA) for Use, Management, Operation, and Maintenance of the Historic Waimea Theater.

- Amended and Restated Lease of the Waimea Theater

Ms. Yukimura moved to approve C 2013-202 seconded by Ms. Nakamura.

Chair Furfaro: I have a motion and a second.

There being no objections, the rules were suspended.

Chair Furfaro: Gentlemen, you are current on this program?

Mr. Cobb-Adams: Yes.

Chair Furfaro: I there anything that you would like to add?
You have said it all? Anyone in the audience who wishes to testify on this item?

There being no one present to give testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2013-202 was then put, and unanimously carried.

Chair Furfaro: I think that is all the business that we have for Housing today. If I can call up Finance. Makani, thank you very much. I think Steve's item is C 2013-194.

COMMUNICATIONS:

C 2013-194 Communication (05/06/2013) from the Director of Finance, transmitting for Council information, the Period 9 Financial Reports – Detailed Budget Report, Statement of Revenues (Estimated and Actual), Statement of Expenditures and Encumbrances, and Revenue Report as of March 31, 2013, pursuant to Section 21 of the Fiscal Year 2012-2013 Operating Budget Ordinance No. B-2012-736 of the County of Kaua'i. (*Copies of the Period 9 Financial Reports as of March 31, 2013 on file in the County Clerk's Office*): Mr. Rapozo moved to receive C 2013-194 for the record, seconded by Ms. Yukimura.

There being no objections, the rules were suspended.

STEVEN A. HUNT, Director of Finance: Thank you, Chair. I submitted yesterday, to Scott Sato, a summary report of action.

Chair Furfaro: Yes, that is this one here for all the members.

Mr. Hunt: Correct.

Chair Furfaro: That is what we requested you to do for us and I want to tell you that it is much appreciated and especially with the speed that it was done. I will hold my comments for accuracy, but speed was done.

Mr. Hunt: Great, thank you.

Chair Furfaro: Go ahead, Steve.

Mr. Hunt: Both the revenue and it was also done for expenditures. So, you have now a summary report rather than the very thick file of actual information to pour through. I guess first, I wanted to ask whether this particular report is in fact what you were anticipating and would like to receive for future quarters as we turn them in?

Chair Furfaro: I will bring it to one (1) question and your answer will tell me if it is acceptable. I would like to turn to the page that is really dealing with the revenue pieces and take it all the way down to the unrealized balances. Tell us a little bit about the sixteen thousand nine hundred sixty-two dollars (\$16,962).

Mr. Hunt: The remaining balances that would be anticipated from the budget that have not been realized as of yet from all funds.

Chair Furfaro: This is from all budgets all funds?

Mr. Hunt: Correct.

Chair Furfaro: And you and I had this discussion about that number being like eleven thousand dollars (\$11,000), this is sixteen thousand dollars (\$16,000).

Mr. Hunt: Yes. My eleven thousand dollars (\$11,000) number, ten thousand five hundred dollars (\$10,500) actually was anticipated lapse that is available for unassigned General Fund only. But all funds, correct.

Chair Furfaro: My discussion was thirteen thousand dollars (\$13,000).

Mr. Hunt: Yes.

Chair Furfaro: So, we are here at sixteen dollars (\$16)?

Mr. Hunt: Yes.

Chair Furfaro: That is the good news?

Mr. Hunt: That is good news.

Chair Furfaro: But at the time, it is a great tool for us not to need to do my regular routine and this will be a standard quarterly practice now, this summary or will it be monthly?

Mr. Hunt: Yes, this is the format you anticipate. We will provide that on a quarterly basis.

Chair Furfaro: Quarterly?

Mr. Hunt: Yes.

Chair Furfaro: This is in reflection to our discussion, folks, that we dealt with during the budget session because we did agree and recognize as Vice Chair was getting prepared to introduce a Resolution to this fact, we have realized how critical the first ninety (90) days were for you. But we certainly agreed that something on or about the ninth period or three-quarters through the year, we would like to get a glimpse of what the unused/uncertified balances might be. This number in the corner here is the key one for all the Councilmembers. Now can I ask, have we tightened up all the numbers because in your budget presentation to us, you indicated that instructions were given to the different Department Heads not to be excessive in their spending for the rest of the year? Is this pretty tight now?

Mr. Hunt: That is correct. This is where we are. This is pretty tight and that was reinforced at the last Department Head Meeting, was that we are trying to preserve as much Fund Balance to lapse this year to help in assisting Fiscal 2015.

Chair Furfaro: If we find ourselves in a traditional financial picture that he were in this year, we used how much to start this year's budget, eleven million dollars (\$11,000,000).

Mr. Hunt: For Fiscal 2014?

Chair Furfaro: Yes.

Mr. Hunt: I believe eleven million seven hundred thousand dollars (\$11,700,000).

Chair Furfaro: Eleven million seven hundred thousand dollars (\$11,700,000), and if we use the same numbers next year, it seems that the sixteen millions five hundred thousand dollars (\$16,500,000) might actually leave us about three million dollars (\$3,000,000) surplus.

Mr. Hunt: Well, the eleven million seven hundred dollars (\$11,700,000) was only for General Fund, not all funds.

Chair Furfaro: Yes, this is all fund.

Mr. Hunt: This is all fund.

Chair Furfaro: But those are other funds that we transfer money to?

Mr. Hunt: Correct.

Chair Furfaro: Money is money, no matter what fund it comes out of.

Mr. Hunt: Yes, but we started with fund balances or estimates for those funds to begin with as well. If you look at totality of what was utilized for the budget, then we would have to look at that as well.

Chair Furfaro: But for all intents and purposes, you said we were going to be at eleven million seven hundred thousand dollars (\$11,700,000) and for nine (9) months at the top of the page, we are at eight million two hundred thousand dollars (\$8,200,000). If everybody follows that right here? JoAnn, right there. That is the piece that is being carried over in the General Fund. The one on the bottom is all funds.

Mr. Hunt: Right.

Chair Furfaro: I am very pleased. I want to personally thank you for doing this.

Mr. Hunt: Thank you. I would like to thank Ken and Anne, as well for preparing this, the Budget Analysts.

Chair Furfaro: The two (2) Budget Analysts are very much appreciated for doing this work for us. Thank you, Steve.

Mr. Hunt: Just to clarify one other things too. This is only the revenue pieces, you also have to look at the expenditures to see the nets.

Chair Furfaro: Sure. But that is why I asked you the question. They were instructed to cut their spending.

Mr. Hunt: Yes.

Chair Furfaro: Questions? If not...sure.

Ms. Nakamura: Thank you very much Steve for doing this.

Mr. Hunt: You are welcome.

Ms. Nakamura: I will take a look at the proviso and some of the other notes from previous discussion. I have not had a chance to do that prior to do that to today. So, we will be providing something written comments.

Mr. Hunt; Great.

Ms. Nakamura: Thank you.

Chair Furfaro: I am not going to provide any written comments. I am just going to say thank you.

Mr. Hunt: You are welcome.

Chair Furfaro: Twelve (12) years to get here. Good. Thank you, Steve.

Mr. Hunt: Thank you. Any comments from the audience?

There being no objections, the meeting was called back to order, and proceeded as follows:

Chair Furfaro: This is a motion to receive. Further discussion by the members?

The motion to receive C 2013-194 for the record was then put, and unanimously carried.

Chair Furfaro: Thank you very much. Do you know where we left off, we can keep marching?

Mr. Watanabe: Yes, C 2013-195 on page 3.

Chair Furfaro: Hold on just a second. May I ask, before we go to a new one. Is the County Attorney willing and able to come up now to address the questions that we put on table? Why do not we go back to that? Read the number again one more time again, please.

Mr. Watanabe: C 2013-182 on the middle of page 2.

Chair Furfaro: Got it.

There being no objections, the rules were suspended.

IAN K. JUNG, Deputy County Attorney: I think I want to address some of the issues that have been raised this morning. I think where we left off in the last meeting is that we wanted to hold an Executive Session to try and explain some of the legal complexities regarding the TVR Ordinances 864, 876, and 904. I first want to apologize to the Council because when the Chair asked that I submit an Executive Session posting, I did prepare the Executive Session posting but I inadvertently sent wrong word file to my staff who transmits it over to the Council. So, unfortunately the wrong posting got on the calendar and that would be ES-637.

Chair Furfaro: If we are coming to confession, may I also say to you that you would have been about nine (9) hours late to make the posting as well.

Mr. Jung: Right. When it got sent to, I checked my phone at 9:00 p.m. and realized that I made a mistake once I checked the Council agenda. I sent an E-mail to Council Services Staff that I did make the mistake in hopes that we could try to change it. But then I was informed that a few Councilmembers would not be here on this particular date. Then with regard to why I wanted to hold the Executive Session, I think it would be important for the Councilmembers who were not on the Council at the time that we went through the briefings about whether or not 904 we be passed or not. It would be imperative that the Councilmembers who were not at the Council at the time be here currently for

that Executive Session. I think the two (2) Councilmembers that were here were only yourself, Chair Furfaro as well as Councilmember Bynum.

Chair Furfaro: Let me just say that I want to say that we are all human and we do make timing mistakes but thank you for coming forthwith that.

Mr. Jung: I appreciate that and hopefully my wife will take my mistakes the same way you do. But I did correct the posting. I will get it on for the next agenda and I believe the next Council agenda is June 5th. I will get it on before the big meeting that will you hold on June 12th so we can thoroughly vet some of the issues, not just past and present issues, but also issues that are forthcoming moving forward with enforcement because we do have pending litigation right now, not just Administrative litigation, but also Circuit Court litigation where Attorneys have used have used any discussion I have had or Planning Director Dahilig has had with this Council in their briefing. I just want to make sure the Councilmembers have, and IT is my advice so it is up to you folks. But when we go into Executive Session I wanted to discuss certain parameters of where discussion points should be. Again, it is up to you folks. But I want to at least give you the briefing first before we engage again in this dialogue about enforcement issues.

Chair Furfaro: Let me first clarify one piece. If you are looking, will I be willing to post a Special Council Meeting for the 5th on this item, I do control the agenda and the answer is "yes."

Mr. Jung: My staff does have it corrected one so I will have it sent over. I apologize again. If there are any questions, it is up to you folks.

Chair Furfaro: Go right ahead, JoAnn.

Ms. Yukimura: Ian, are you saying then that for C 2013-182, you are familiar with what I am talking about?

Mr. Jung: That is the coordination between the Prosecutor and Planning Director?

Ms. Yukimura: Yes. That we are not able to ask them questions in the open or that you would prefer that we do not ask any questions until you brief us in Executive Session?

Mr. Jung: Well, I will not tell you what you can and cannot do. But from my perspective, I would prefer to have the Executive Session so you folks can understand the issues. I think there are outstanding issues that certain Councilmembers do not have that I think would be relevant to the discussion involved with the complexity of the TVR Ordinances. I think it is imperative that you folks understand these issues whether or not you agree with the issues or not of whether you find these issues to the point where they should be raised. It is up to you folks. But I think you should at least hear these issues out because we are facing litigation on these issues

Ms. Yukimura: I just want to say that I will not be here on the 5th and I have said that earlier on.

Mr. Jung: Oh, right.

Ms. Yukimura: But I guess I can read the transcripts or the minutes. We would defer this then to the 12th?

Chair Furfaro: I cannot make a motion. The motions have to come from you folks.

Ms. Yukimura: But if we defer it, this is a Council Meeting so it would be deferred to the next regular Council Meeting unless we want it to be deferred to the 5th?

Chair Furfaro: Is that the 12th, the next regular Council Meeting?

Mr. Watanabe: Yes, June 12th is the next regular scheduled Council Meeting.

Chair Furfaro: We have answered your question. I will recognize the others. But we have answered your question, the date is the 12th.

Ms. Yukimura: I am willing to make a motion to defer. But that is to June 12th unless we specify otherwise. Maybe there are others that wish to speak first.

Chair Furfaro: Mr. Rapozo and then Mr. Hooser.

Mr. Rapozo: Thank you, Chair and Ian, thank you for being here. I would assume that we would get some kind of documentation prior to the Executive Session date?

Mr. Jung: Yes.

Mr. Rapozo: To be honest, I am battling that we cannot even talk to the Planning Director today and I understand what you are saying. We are in litigation. We are always in litigation. We are in litigation involving the Police Department, does that mean we cannot have the Police Chief up here to ask questions about issues? I understand that litigation is pertaining to the TVR Ordinance, I understand that. But this as Mr. Hooser clearly pointed out earlier, this is going forward. Considering all the complaints that have arisen, what are we going to do going forward? That is how I read this posting. I understand there is some concerns. But to be honest, the appearance of this is really like we are kind of hiding from the public and that is how I would perceive it if I am sitting on that side of the rail because they have no problem discussing it when the Prosecutor was looking for another funding for another position or continued funding on a position. There was no real concern when they were up here and I know Councilmember Nakamura said we ran out of time. We did not run out of time. We had all night. It was the Planning Director that ran out of time which to me was another problem and then you compound that with today's events like all of a sudden now he cannot even come at all. He is not allowed to come into the building and the appearance is not good as far as I am concerned. I am still battling with this. I probably will not support the motion to defer this matter because I do not think we need to. I think this matter should be addressed here and if he wants to come or if he wants to plead the fifth or whatever he wants to do, he can do it here on the record so we have a record of what occurred. I am battling with that right now. Should this get deferred, I want to know from the County Attorney's Office, are we going to be able to have

documents to review before I get to vote on whether or not we go into Executive Session because I really, really and all of us are very critical of what is discussed in that room and I want to make sure that if we go into that room, it is for the reasons specified in the Sunshine Law.

Mr. Jung: Sure.

Mr. Rapozo: Thank you.

Mr. Jung: I ordinarily do PowerPoints on these issues. So, I will make a PowerPoint available to the Councilmembers in advance.

Chair Furfaro: Thank you, Mr. Jung. I think we had a question from Mr. Hooser before I take public testimony.

Mr. Hooser: I am trying to understand the situation. I understand the posting on the Executive Session issue was incorrect and you are going to correct that and now we are really talking about the other agenda item. I am getting mixed messages or two (2) messages. The County Attorney told us earlier that the Planning Director was advised by the County Attorney's Office not to be here and then when we asked further, he suggested that if he did come, he would have to take the fifth Amendment. Now I am hearing from you that the reason that you would prefer us not to engage in a dialogue on these issues with him is because there is pending litigation and that there are things that we need to know and be told in Executive Session about that pending litigation. There are two (2) different messages we are getting. I would like to know what the real message is or what the primary message is or whether they are both valid messages, that is number one. Number two, as Councilmember Rapozo said, there is always litigation, always. Next year there will be TVR litigations and there will be Police Department litigation and all kinds litigation. Usually, it is my experience and Councilmember Yukimura suggested this earlier today, my experience that yourself or other members of the Attorney's Office would sit next to or with the Planning Director or whoever and if the question strayed into an area that would potentially negatively impact the County's interests, that you would interject at that point. That is the second question, why can we not do it that way?

Mr. Jung: With regards to the first question, both are valid points. I think and I am not get into the details of the advice that our Office gave Mike Dahilig because it is Attorney-Client privilege. So, I am not going to get there. But with the second issue is yes, I made a mistake and hopefully we can get this on to the point to answer your second question, that there are significant legal issues here. They are being raised in briefs. Mr. Dahilig and myself have been quoted in briefs by another Attorney that I have a pending hearing on July 12th. So, that is why it is important. I have no problem sitting here with Mike on the issue, but Mike is the one who holds the card on the Fifth Amendment. It is up for something for him. If we get to that point, folks want to move forward and Mike is willing to come up and discuss that with you, that is up to him. But at first, I want you folks to understand that there are concerns here. I would prefer to do that in Executive Session so we cannot get hamstrung in future litigation because looking retroactively, we are still dealing with pending applications for special permits, pending applications for State Land Use District urban designated TVRs. Then we are looking at how to deal with renewals and people who failed to renew their TVR certificates with that one (1) year period of time. All of these issues will come up and we have to formulate a valid position first before we engage in open discussion on

this so we can have a strategy in moving through the litigation. I want to leave it there because this will probably be used in the future. This open dialogue will be used in briefs and that is fair. It has happened before. There will be future litigation. It is just the way with County. It is just the way it is with society and that is how the law works. But all that I am asking is that the Council be aware of the legal issues especially the Councilmembers who were not present during 876 and 904 amendments to 864. So, you have a broad understanding of what the issues regarding non-conforming uses are because it is the most complex land use litigation, when you deal with non-conformity of uses and how to register and apply those to non-conforming use to current, valid uses. It is a complex area of land use law which takes quite a bit of time and detail to explain. I would probably hope to reserve at least two (2) hours to get to the meat of it, anticipating an additional amount of questions. Unfortunately, we do not have much case law in Hawai'i. There is only one (1) case that speak directly on point to this. It comes from advice in our Office on how to deal with these types of situations. Basically all I am asking is that you folks be aware of these issues before we engage in open dialogue and criticism of the Department, criticism of the Administration for not going after TRVs because it is happening. We are enforcing the TVR Ordinances to the point of pending applications, getting through the batch before we move on to the next step. So, things happen in phases. There are other issues going on with Planning aside TVRs so it is a difficult balancing act in terms of litigating the issues as well as performing on the issues. I think that is what needs to be discussed and how this is being applied and how implementation is difficult.

Mr. Hooser: Thank you.

Chair Furfaro: Yes, go ahead.

Ms. Nakamura: Ian, would you prefer that the briefing be on
June 5th or the 12th?

Mr. Jung: I will leave it to the pleasure of the Council,
either way I will have time.

Ms. Nakamura: You are available on both days for that
briefing?

Mr. Jung: As I mentioned on the last meeting on
June 12th I do have Planning Commission. I know it is of significant importance to
the Council, so I will find a backup to cover Planning Commission because it is
Prince Kūhiō Day, I believe that day.

Chair Furfaro: JoAnn.

Ms. Yukimura: I just want to say that if we had this
discussion upfront this morning, it would have been clearer and more helpful. I
know it was inadvertent and unintentional, but the inaccuracy of the posting for the
TVR is pushing everything to the 5th when I am not going to be here and then to the
12th, when we have a very heavy agenda. We just need to have perhaps more
accurate and also upfront addressing of the issues so we do not have to take so much
unnecessary time

Mr. Jung: Yes, I apologize.

Ms. Yukimura:

Thank you.

Chair Furfaro: Young man, first of all, thank you very much for coming over. Let me ask you, a discussion like this might take upwards of two (2) hours and our 12th is very, very full. I am wondering and I am going say it out loud to the Clerk, if we should not or could not have a Special Council Meeting posted on an Executive Session dealing with this matter either on the 11th or the 13th, do either of those days work for you?

Mr. Jung:

I believe the 11th is a holiday.

Chair Furfaro:

Oh, that is right.

Mr. Jung: I am willing to come in on a holiday if you folks want me to. The 13th, I am available.

Chair Furfaro:

You are available?

Mr. Jung: Yes, I checked my calendar surrounding that day. I am going to ask members, how do we look, Clerk for the 13th?

Mr. Watanabe: just post the next agenda.

June 13th is a Thursday and pretty much we

Chair Furfaro: If we posted a meeting, we had our staff meeting in the morning, we posted 10:00 a.m. for a Special Council Meeting, 10:00 a.m. to 12:30 p.m.

Ms. Yukimura: I just want to say, we have this Department of Transportation (DOT) meeting on the Long-Range Transportation.

Chair Furfaro:

It is on the 13th?

Ms. Yukimura:

That morning.

Mr. Jung: as well.

We can do it in the afternoon, is fine with me

Ms. Yukimura:

But also, related, Chair.

Chair Furfaro:

Go ahead, you have the floor.

Ms. Yukimura: The 12th is the investigation issue and all of this was supposed to dovetail into that. It was supposed to be background for our decision making on that.

Chair Furfaro: Monday the 10th like?

We understand. I mean, should we, what is

Mr. Watanabe: Monday, the 10th.

I do not believe any posted meetings on

Chair Furfaro:

What is your schedule, Monday the 10th?

Ms. Yukimura: Chair, may I also make another suggestion.

Chair Furfaro: Let us get through one suggestion at a time.
He may say Monday is not good. Monday is good?

Mr. Jung: I am okay. It is fine.

Chair Furfaro: Now before we go any further, members is there another suggestion day?

Ms. Yukimura: Chair? I am not going to be here either the 5th or the 10th. I was out. But I would suggest you go ahead and the 5th maybe because it is already a Council day, if it is not a heavy agenda. I am going ask for a personal briefing. It might be on – I do not know when. But if we are going to make decisions on the 12th, I have to be briefed before the 12th and I am coming back on the 11th from my vacation. I do not know.

Chair Furfaro: The 5th is a Committee Day and we would have to post a Special Meeting in the morning.

Ms. Yukimura: It is up to you. I will be gone.

Chair Furfaro: Mr. Hooser.

Mr. Hooser: Just for the record I would prefer the 5th. I am not going to be available on the 10th.

Chair Furfaro: We are moving towards the 5th everyone. So, that is Wednesday the 5th. We will hold that thought. We will excuse you. I will see if there is public testimony from the gentlemen here. Glenn.

GLENN MICKENS: I just have one question. I thought this was an extension of the last time the Planning Director sat here in this seat? The only reason we could not continue it, he had to catch a plane. Now why could he not be here today? Why do we have to have an Executive Session?

Chair Furfaro: Let me explain this to you. I have put this on the agenda for discussion with the Planning Director.

Mr. Mickens: Right.

Chair Furfaro: Subsequently the next week, Mr. Rapozo and Mr. Hooser asked me to put their Resolution on the investigation to go on the agenda. So, that item lapsed. Then Mr. Mike had to leave because he went to a regents meeting, subsequently the meeting agenda was there which has caused some concerns as you heard from the County Attorney.

Mr. Mickens: Right.

Chair Furfaro: That is what is going on. Do you want to testify on this item today?

Mr. Mickens: No. You pretty well clarified me because I thought the only reason we did not keep on quizzing the Planning Director was because simply because he ran out of time and he had to catch a plane.

Chair Furfaro: It is two (2) parts. You are correct. He ran out of time, but you also need to identify that within that seven (7) day period, we posted a new Resolution identifying investigative services with a 3.17.

Mr. Mickens: Now there is going to be an Executive Session today and until the 5th, it will not come back up.

Chair Furfaro: Executive Session 637 will have to be received today because it was posted wrong. This only dealt with part of the issues. We are going to move to receive that and post a new one for June 5th. Now on June 5th is a Committee Day so we will have to post a Special Council Meeting and it seems from the dialogue around the table, that date works for everyone best, except for JoAnn who is asking for her own briefing. She is having a family celebration that day.

Mr. Mickens: Yes, I understand.

Chair Furfaro: Do you want to give any testimony?

Mr. Mickens: No, thank you.

Chair Furfaro: Thank you, Glenn.

Mr. Mickens: Just one thing. I do agree with JoAnn and Mel one hundred percent (100%). This thing is being handled horribly and it should be definitely – resolution should come somehow when people in the audience, like Joan and they have to bring this before the Council. The Council picks up on it like, they should and you have done a great job. But we sit here and listen to this double talk and song and dance. We do not hear answers coming forth. It just seems like something wrong with the system.

Chair Furfaro: Just remember also that everybody here at the County took an oath of Office that implies that it is also our responsibility to watch out for the best interest of the Council and the County. So, that is why it has becomes so delicate. But we are moving forward on the Resolution as well.

Mr. Mickens: Thank you, Jay.

Chair Furfaro: Anyone else who wishing to speak? I am going to make a little housekeeping notice, if I can. I have a 12:30 p.m. appointment and I may be back a little later than anticipated. After we take public testimony four (4) people can vote on the...and could you just remind everybody, we need to receive the item. It has or was something that was posted wrong.

Chair Furfaro, the presiding officer, relinquished Chairmanship to Ms. Nakamura.

Mr. Taylor: I guess I am really upset on your agenda. Your agenda item today here on this item provides the Council with a briefing regarding the coordination of effort between the Planning Department and the Office of the Prosecuting Attorney to enforce the Transient Vacation Rentals Ordinance

and their plans for dealing with the various enforcement issues raised by the public and the Councilmembers. This is a policy issue. It is a process issue. I can see absolutely no reason to go into closed session. I think it is very sad that the Administration has gone down this route of not showing up and dealing with the issues at hand. It is just another reason that I say this system is broke. If we have a County Manager style of government, you folks would not sit here and let the County Manager sit here and play these games. His head would be rolling if his staff operated like we are seeing here today. I am saying it is time. It is time to bite the bullet and move a proposal forward to the electorate of this County to look at changing the way we operate. This has gone on for too many years. We are not getting the answers. Things are happening that should not be happening. It is time for you folks who have been elected by the people of this County to step up to the plate and do that right thing and put your foot down and say enough is enough—we are moving forward. It is really sad to see our government structure so out of balance and out of whack between what is going on and the concerns of the community and the lack of things happening. I do not know what the right words are.

Ms. Nakamura: That is your first three (3) minutes, Ken.

Mr. Taylor: Thank you.

Ms. Nakamura: Three (3) additional minutes.

Mr. Taylor: Thank you. I just hope that you will move forward your Resolution to investigate what is going on and let us get on with it. Thank you.

Ms. Nakamura: Thank you. Any questions for Ken? Would anyone else like to testify? Then we are going to call the meeting back to order here and discussion?

There being no objections, the meeting was called back to order, and proceeded as follows:

Ms. Yukimura: I guess Vice Chair, we should defer item C 2013-182 and then do we move on a Special Council Meeting on the 5th?

Ms. Nakamura: Could someone make that motion?

Mr. Rapozo: After discussion?

Ms. Yukimura: Yes.

Ms. Nakamura: Councilmember Hooser.

Mr. Hooser: Yes. I think on the other hand it is a reasonable request from the County Attorney to request that they brief on us on the legal implications prior to open discussion, on the one hand. On the other hand, like I had mentioned before, the County is always being sued and if this is a path that we cannot talk about something on a regular basis then we cannot talk about anything down the road. What I can see coming is that on the 12th, we are going to be cautioned doing a 3.17 investigation because of pending litigation and therefore we better not do this because it is going to impact the County. I thank Ken for your

testimony because it really reflects a lot of what I am thinking. This is very sad that we are in a situation where we cannot even talk to the Planning Director on an issue that is on the front burner of our community because we are afraid of what they say might hurt us in Court. I understand it is a reality of the legal system. But it kind of begs the question of who do we represent? Is our primary concern protecting the County from litigation, protecting the County from lawsuits or is it seeking truths or is it protecting the citizens and voters of this County? I have not had a chance to think that through today. It is a complicated question because the voters and the citizens will have to pay those lawsuits. But at the same time, it just seems like something big is out of whack in this County and whether we have a County Manager or not, I believe the top Administrator of the County is responsible and we should ask the Mayor to come forward and take responsibility and brief us in future as well. It is very disappointing. Again, it can extend to every single thing we do where we come up here and we are told we cannot ask questions because there is pending litigations. I will support the deferral when the motion has been made and look forward to working through these issues. Thank you. Thank you, Chair.

Ms. Nakamura: Before you speak, Councilmember Rapozo, it is also been suggested that we receive this item, so that it can be reposted. So, that is another option available to this body.

Mr. Rapozo: Thank you, Madame Chair. My grandmother used to tell me long ago, "you make your bed, you sleep in it" and what has happened today is going to negatively impact not just the Planning Department, the County Attorney's Office, but this body as well. This body is the legislative body. This invitation, this request to have the Planning Director here is not an RSVP invitation. It is not. You come. You come here. You do not use the County Attorney and use the County Attorney as an excuse and say, I am not going come because the Attorney said I cannot answer your questions. You do not even know what the questions are. This posting and I would agree, although I compromised to recommending an amendment, I agree with Councilmember Hooser that this posting is fine and talks nothing about 3.17. It is fine. It talks about nothing about any of the specific TMKs that were we looking at investigating. This is about going forward. It is clear to me, and to many other watching and this is just my opinion, that the Administration has decided to say, let us do damage control and let us just not give anyone an opportunity to expose more. That is what it is. It is clear. It is plain. I agree with Mr. Hooser, whether it is a County Manager or Mayor, it does not matter. It is some big problems and granted there had is litigation out there, granted there is lawsuits, and granted there will be more. Maybe the investigation may generate even more. But what makes it clear today and I hope my colleagues would agree that the 3.17 investigation is necessary. This problem is bigger I think is bigger than what we all even imagine and maybe people say I am exaggerating. But I almost hate to say it, but I really expected this type of activity or action from the Administration because I realize this is where it becomes serious, this is where it becomes real for them. This is where the exposé will occur. This is where we will find out once and for all, what really went wrong because we know one thing, it is wrong. We know one thing. We know that many of these properties out there that are permitted, should never have been permitted and we will never, ever, ever get to the bottom of it unless we do an investigation. I am glad for that. At least I am hoping that most of you or all of you will agree this just clarifies the necessity to go forward with the investigation and this nonsense of inviting them here and them saying we are not coming. I do not think that has ever happened, really where a Department Head just never showed up. That is their prerogative. But I am glad that the public gets to watch this so they can see because it bothers me, Madame Chair. It bothers me tremendously that

this body would be disrespected like that. To just say that I am not going, I am afraid. I do not want to face them. You are a Department Head and that is part of your job, is to respond to this body. Not to take orders from this body, but to respond and that has been ignored today. It is one of those things that you write down in your book of things to remember because hopefully it will not happen again. I do not want to see a trend starting with this Council and we are just going to say, fine, we are going to reschedule. No. You come here. Recess this meeting until he shows up. That is how the Council would enforce or utilize its authority. Say we will recess, we come back tomorrow morning, we will come back every morning until he decides to show up. Bring your Attorney or whoever. But for us to accommodate that by saying we will take a week or two (2) or three (3) and tell you what you folks need to know in Executive Session and then in the meanwhile the public gets left out of all of it. What is your plan? When is it going to happen? Without going into the issues of litigation, just what is your plan going forward? I will not be supporting the deferral. For me, if I was the Chair, I would recess the Council until he shows up and it could be tomorrow, it could be Friday, could be next week Monday. We do not have to meet only on Wednesdays. The longer he stays out, we sit in recess. That is what I would do. But I am not the Chair. Thank you.

Ms. Nakamura:

Councilmember Yukimura.

Ms. Yukimura: As you saw I too was very bothered the way the Administration has been responding to our requests. It is both disrespectful and not very diplomatic. I do understand however, that if there are certain TVR issues under investigation, if our goal and it is my goal to see that these be brought to proper prosecution or resolution that we need to respect the investigative process. I wish that had been just said upfront at the very first meeting when the Planning Director came to talk to us. He should have said, indeed, as evidence of the work we are doing we have certain things under investigation and we will not be able to talk about them. But we want you to know that we are working on this. But we did not get any clarity like that. If that had been the case, we could have drawn the lines very clearly and said, we will talk about things that are not. I believe a briefing can help us in terms of how we craft the questions for open session because we have a responsibility to respect the investigative process. But why did people not just tell us all of this upfront, give us a briefing upfront and then we could have had an orderly discussion. So, because the way that it has been handled, it looks like there are things that are being hidden. There are no clear and direct answers to our questions and it upsets everyone, the Council and the public. I hope that the Mayor, the Managing Director, the Planning Director, the County Attorney, and the Prosecuting Attorney will all get together and give us a clear, orderly way to handle this in respectful response to our legitimate inquiry. In terms of what to do now, I think this briefing makes sense, the briefing by the County Attorney, so we should have that as soon as possible. I will do my part to schedule a separate briefing since I will not be here. Then I think we need to proceed on these issues and I think there has been terrible delay because there has been terrible response from the Administration.

Ms. Nakamura:

Councilmember Rapozo.

Mr. Rapozo: I just want to take off on what Councilmember Hooser said earlier. What is really our job? Our job is to protect a myriad of things besides obviously the County. But more importantly our job is to protect the people, our resources, natural resources, beaches, and all of that. Our job is not to protect the mistakes, if you will, or the oversight or whatever happened

which we do not know. Our job is not to protect the Administration for that. Our job is to get to the truth as you just stated, Councilmember Yukimura. That is our function. These delays that you talk about and I want to bring it up because it is vital and I wish Mr. Bynum were here. When we get to the 3.17 investigation and this is a process comment so I believe it applies. If we stick with the Committee, you look how long it takes, Councilmember Yukimura, just to get to this item because it was mis-posted it will take us a whole other week, whereby, if you had a Committee of three (3), you could get it down tomorrow. You could get this done of Friday, as soon as possible you could get it done. I just wanted to bring that up for the members that are considering that amendment. The time is of the essence and every day we prolong this, it will make it more difficult and more difficult and more difficult for the investigator should he be retained. Thank you.

Ms. Nakamura:

Yes.

Ms. Yukimura: I want to say though that the only people that can bring the TVR issue to prosecution or to revocation is not us. We do not have that power. We need to support any investigation that is ongoing because it is my goal and I think it is everybody's goal to have that kind of proper enforcement. We cannot enforce. We might be able to uncover different problems and Sunshine focused attention on this. But it is not going to get us to the revocation or the prosecution because that is not within our power. To the extent that the Administration has begun to move on something that we want to happen, we need to make sure that we do not mess it up and make sure that if there is any way that we can, we do support it. As you can hear, I am very upset with the way the Administration has responded, but I also want to support them in doing the right thing.

Ms. Nakamura:

Is there a motion to either defer or receive?

Mr. Watanabe:
floor.

We have a pending motion to receive on the

Ms. Nakamura:

Pending motion to receive by whom?

Mr. Watanabe:

Yes, we do.

Mr. Rapozo:
floor so we can have the discussion.

I made the motion to receive to get it on the

Mr. Watanabe:

Seconded by yourself.

Ms. Nakamura:
and seconded.

Thank you. So, we have a motion to receive

Ms. Yukimura:
June 5th.

Are we assuming then that it will be reposted

Ms. Nakamura:

On June 5th.

Mr. Watanabe:

On June 5th for Special Council Meeting.

Ms. Yukimura:
Session counterpart, right?

And it will be posted with an Executive

Mr. Watanabe: Yes.

Ms. Nakamura: That is good. Thank you for clarifying that we need both postings.

Ms. Yukimura: If I may.

Ms. Nakamura: Sure.

Ms. Yukimura: I do want to say several meetings ago when we have a TVR issue we should have an Executive Session counterpart and that has not been happening. So, I would like to reinforce that request.

Ms. Nakamura: Thank you for making that request. I remember you doing that and I think there was an error this time. Councilmember Rapozo.

Mr. Rapozo: Just because I made the motion does not mean I am going to support it and I am not going to support it. It is parliamentary rules that you need a motion to get it on the floor that and that is what I did. I thought we were going to have the discussion and apparently we are not. Like I said, you heard my suggestion. So, I will not be supporting the motion to receive. I would like to have that dialogue within this meeting. But we will let the votes fall where they fall.

Ms. Nakamura: Councilmember Hooser.

Mr. Hooser: I have a process question. If there is a motion to receive and it ties, does it just stay on the agenda?

Mr. Rapozo: It will be automatically deferred?

Mr. Hooser: To the next Council Meeting?

Ms. Nakamura: It would be the first item on the next meeting.

Mr. Rapozo: The next business of the day.

Mr. Hooser: Which is what day?

Ms. Yukimura: June 12th.

Mr. Rapozo: Fourteen (14) days from today.

Mr. Hooser: So, it will be on the 12th, the same day as the other item?

Ms. Yukimura: But I mean, I think the Chair on his own initiative could also call a Special Meeting on the 5th and post it.

Mr. Rapozo: Not if it is a tie. We do not have that luxury. That automatically is placed as the first order of the day. But I am not sure, because the Chair is still here. Does his absence, is it a silent vote?

Mr. Watanabe: No, he excused himself.

Mr. Rapozo: So, that is what would happen. We do not have the flexibility of moving it.

Mr. Hooser: If I may? It is my understanding that the intent of the Chair is to schedule an Executive Session for Special Council Meeting on the 5th dealing with the TVR issue as what was described by the County Attorney's Office, right, that is correct? This item is a separate item, as it stands now it is a separate item that we are discussing receiving or deserving, right? The agenda item that we are talking about is not – that is correct?

Ms. Nakamura: It is an open session discussion?

Mr. Hooser: Right. The question is do we receive it which takes it off the agenda period whether we do nothing then it would automatically roll over to the 12th which is I the same day as the 3.17 issue which would require the Planning Director and related persons to attend on that day anyway, I think. I am not sure if it makes much a difference which way we go with it because either way we look at it on the 12th we will be discusses discussing it and on the 5th as well. My general feeling and then I will stop talking, we talked about this enough, is that it feels like the Administration is just seeking to delay action, delay conversation, delay debate, and covering their *okoles*, if you will, and that is troubling. It has been like that since I have been back on the Council. It seems like on this issue, we have not gotten straight answers. We have gotten talking in circles, it seems like. I will have to wait for the vote to be called to decide how I am going to vote on this. Thank you.

Ms. Nakamura: The motion is to receive. It has been seconded. Any further discussion? If not, can we just do a roll call vote?

The motion to receive C 2013-182 for the record was then put, and carried by the following vote:

| | | |
|-----------------------|------------------------|------------|
| FOR RECEIPT: | Nakamura, Yukimura | TOTAL – 2, |
| AGAINST RECEIPT: | Rapozo | TOTAL – 1, |
| SILENT & NOT VOTING: | Hooser | TOTAL – 1, |
| EXCUSED & NOT VOTING: | Bynum, Kagawa, Furfaro | TOTAL – 3, |
| RECUSED & NOT VOTING: | None | TOTAL – 0. |

Mr. Watanabe: 3:1, ayes.

Ms. Nakamura: Again, the understanding that there would be a Special Council Meeting on June 5th.

Mr. Watanabe: Yes.

Ms. Nakamura: There will be an open session, as well as Executive Session.

Mr. Watanabe: Yes. That was part of the motion.

Ms. Nakamura: And that we will get the materials from the County Attorney ahead of time. Thank you very much.

Mr. Rapozo: I think we need to go to lunch.

Ms. Nakamura: We need to go to lunch. But one thing that staff asked us to do is receive ES-637, the item that was not supposed to be posted today.

EXECUTIVE SESSION:

There being no objections, ES-637 was taken out of order.

ES-637 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), on behalf of the Council, the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing on implementation of Bill No. 2439 relating to Planning Department civil fine authority and methods of investigations and related matters to address questions related to levying and collecting civil fines pursuant to Hawai'i Revised Statutes Section 46-1.5. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities and/or liabilities of the Council and the County as they relate to this agenda item: Mr. Rapozo moved to receive ES-637 for the record in open session, seconded by Ms. Yukimura, and unanimously carried.

Ms. Nakamura: This meeting is now in recess.

There being no objections, the Council recessed at 12:50 p.m.

There being no objections, the Council reconvened at 2:00 p.m., and proceeded as follows:

Chair Furfaro: Aloha, everyone and we are back in session. Just for general information, Mr. Rapozo had an emergency that he needs to attend to at lunchtime and he will possibly be joining us again later today. Now new item, please, Rick.

C 2013-195 Communication (05/07/2013) from the Hawai'i State Association of Counties (HSAC) President Mel Rapozo, transmitting for Council approval the slate of officers for the Executive Committee for HSAC and Board of Directors for the National Association of Counties (NACo) and the Western Interstate Region (WIR) for Fiscal Year 2013-2014, pursuant to Section 5 of the Bylaws of the Hawai'i State Association of Counties, Inc: Ms. Yukimura moved to approve C 2013-195, seconded by Mr. Hooser.

Chair Furfaro: I am going to suspend the rules if there is anyone here that wants to testify on this item.

There being no objections, the rules were suspended to take public testimony.

There being no one present to give testimony, the meeting was called back to order, and proceeded as follows:

Chair Furfaro: Seeing no one, we have four (4) individuals here for a quorum to take a vote on this. We need three (3) of the four to confirm the communication. All those in favor, signify by saying aye?

The motion to approve C 2013-195 was then put, and unanimously carried by a 4:0:3 vote (*Councilmembers Bynum, Kagawa, and Rapozo were excused*).

Chair Furfaro: This passes 4:0. Let us go to the next item.

C 2013-196 Communication (05/08/2013) from Thomas Takatsuki, the Human Resources Manager, transmitting for Council information the list of all vacant positions for the County of Kaua'i as of March 31, 2013: Ms. Nakamura moved to receive C 2013-196 for the record, seconded by Mr. Hooser.

Chair Furfaro: Thank you. Everybody has been provided with the list? Anyone who wants to give testimony? The meeting is still in session.

The motion to receive C 2013-196 for the record was then put, and unanimously carried.

Mr. Watanabe: Council Chair, we will be moving 2013-197, C 2013-198 and C 2013-199 to after the Executive Sessions which brings us to page 4 under Legal Documents.

C 2013-201 Communication (05/01/2013) from the Executive on Transportation, recommending Council approval of a Right of Entry Agreement with Moloa'a Bay Hui II to provide a safe turn situated at 6020 Ko'olau Road, Anahola (TMK: 4-9-009-009), for the Kaua'i Bus at the Moloa'a Bus Stop.

- Right of Entry Agreement

Ms. Yukimura moved to approve C 2013-201, seconded by Ms. Nakamura.

Chair Furfaro: I have a motion and a second. Anyone wishing to testify? I do want to make one comment. I will be voting to support this but the way the existing turn is, it is actually a design that is to slow traffic. If we broaden this or enhance the turn, as suggested, we need to recognize there was a design here for the purpose of slowing traffic in its current configuration.

The motion to approve C 2013-201 was then put, and unanimously carried.

Chair Furfaro: Four (4) ayes, okay. Next item, please.

CLAIMS:

C 2013-204 Communication (05/03/2013) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Emily Ramos, for damage to her vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i: Ms. Yukimura moved to refer C 2013-204 to the County Attorney's Office for disposition/report back to the Council, seconded by Ms. Nakamura, and unanimously carried.

Chair Furfaro: Any discussion here? Anyone from the audience?

C 2013-205 Communication (05/06/2013) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by State Farm Insurance, as subrogee for Joy Buccat, for damages to her vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i: Ms. Yukimura moved to refer C 2013-205 to the County Attorney's Office for disposition/report back to the Council, seconded by Ms. Nakamura, and unanimously carried.

C 2013-206 Communication (05/06/2013) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Enterprise Holdings, for damage to their vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i: Ms. Yukimura moved to refer C 2013-206 to the County Attorney's Office for disposition/report back to the Council, seconded by Ms. Nakamura, and unanimously carried.

C 2013-207 Communication (05/09/2013) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Stanley Tomacder, for damage to his vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i: Ms. Yukimura moved to refer C 2013-207 to the County Attorney's Office for disposition/report back to the Council, seconded by Ms. Nakamura, and unanimously carried.

(Mr. Kagawa was noted as present at 2:05 p.m.)

COMMITTEE REPORTS:

PUBLIC WORKS / PARKS & RECREATION COMMITTEE:

A report (No. CR-PWPR 2013-16) submitted by the Public Works / Parks & Recreation Committee, recommending that the following be approved:

"Resolution No. 2013-54 – RESOLUTION ESTABLISHING STOP SIGNS AND STOP LINES ON OLOHENA ROAD AT ITS INTERSECTION WITH KA'APUNI ROAD, KAWAIHAU DISTRICT, COUNTY OF KAUAI,"

Mr. Kagawa moved for approval of the report, seconded by Mr. Hooser.

Chair Furfaro: Discussion? Any comments? Seeing no one, I cannot see your finger behind the chair. Glenn, I am sorry come right up.

There being no objections, the rules were suspended.

Mr. Mickens: It is the Resolution on the next page, should I wait for that?

Chair Furfaro: You want to testify on the Olohena Road?

Mr. Mickens: Right.

Chair Furfaro: You can give testimony now. There is nothing that prevents you to speak on the Resolution.

Mr. Mickens: Thank you, Jay.

Chair Furfaro: But let me clarify that. The Officer from the Public Works Department is here, but this is coming out of Committee as approved.

Mr. Mickens: Right.

Chair Furfaro: They made their presentation. If we have additional questions, I will certainly bring him up.

Mr. Mickens: Then I will go ahead and read my testimony now, if it is okay with you? Thank you. I still strongly oppose – you have a copy of my testimony for two (2) stop signs at the Olohena/Ka'apuni/Kaehulua intersection will create more problems and accidents that has ever happened in the sixty (60) years or more that the intersection has been in use. Joe Rosa, who has the experience and expertise to know what he is talking about made one of the most compelling arguments against these stop signs. He said you do not put stop signs on a major thoroughfare and Olohena is such a road from its beginning at the roundabout to its end upper Waipouli trail (inaudible), there are no stop signs on it. There are six (6) exactly, six (6) roads that interact Olohena. I find it extremely ironic that neither stop signs, nor mention of accidents have ever been mentioned in the many years that this intersection has been active. Only when Lyle Tabata mentioned that the Mayor had a close call was the hot button pushed to put up stop signs. Why were our Police and Engineers not ever concerned for sixty (60) or more years about safety and only now react due to what I consider a political complaint? Why are we going to "ready, fire, aim" again when the public was never notified about this action any check with them will prove they are upset to think this major action will take place. I have spoken to friends and neighbors in the area who use that intersection on a daily basis and they are furious to know that it is been done without their knowledge or consent. I gave you two (2) names of two (2) very credible people who work for the County and have a plan to make the intersection safer without stop signs and hope that you did get in touch with them and listen to their solution which was very simple. But even thinking about coming up that Olohena grade there, and with the stop sign at the top of it and backing cars up there, especially stick shift cars, trucks and trailers coming up that road would be a disaster waiting to happen. Again, Olohena is still designated as Highway 581. I think the State used to own it. I think they have turned it over to the County. But on all the maps and everything, it is still designated as 581. Again, you do not put stop signs on a major thoroughfare which is what they are proposing to do at this stage in the game. Again, my biggest concern is why? Why at this stage in the game? Possibly our Officer can answer that question. I know of no serious accidents that have been happening on that road, but maybe you can tell us more. I would be happy to answers question. I know I use that on a daily basis and I am sure all of you know where it is. You have got the map here.

Mr. Watanabe: Three (3) minutes.

Mr. Mickens: Thank you, Jay.

Chair Furfaro: Mr. Kagawa, do you want the floor? Go ahead.

Mr. Kagawa: You have talked to obviously and helped spread the word of what is coming and we have received many E-mails and I appreciate that. I would have hoped that Public Works would have maybe talked to the Wailua Homesteads Neighborhood Board...

Mr. Mickens: Right.

Mr. Kagawa: ...and so forth. But they did not and you are kind of being the communicator. What do you think is the bigger issue with a lot of the residents? They are saying it is going to become more dangerous. Do you think it is going to become more dangerous or it is going to become more inconvenient, being that they have to stop on a main thoroughfare? What do you think is the bigger issue why the community is really uprising?

Mr. Mickens: Well, it is more inconvenient, that is true. But I think the danger part of it.

Mr. Kagawa: Honestly, it is either one or the other or maybe it is a tie.

Mr. Mickens: If you put four (4) stop signs up there now, if you have four (4) people coming at the same time, which is not really likely...

Mr. Kagawa: Three (3) stop signs.

Mr. Mickens: No four (4). There will be one (1) eastbound and westbound Olohena and one (1) from Ka'apuni and then one (1) coming off that other.

Mr. Kagawa: Continue.

Mr. Mickens: So there are four (4) and with cars stopping there, there is always going to be the chance of when a car is going to pull up, he is going to think that he has the right-of-way and they are going to come out here. I think it just increases the chance of an accident happening there.

Mr. Kagawa: You answered my question. The other question, Glenn, even if we do clearing of the bush do you not think that just the turn of the bend of the road makes it almost impossible to make it safe. In the past there was that glass. The removal of that glass really made it more dangerous, right?

Mr. Mickens: I agree.

Mr. Kagawa: When Ka'apuni Road lost that mirror which is not Federally Highway approved safety. But it made it safer for drivers, drivers in the Kapa'a area. I think they would agree that once the mirror disappeared, pulling left on Olohena became hazardous and that is why Public Works came up with this. Do you think replacing the mirror would be an option?

Mr. Mickens: Definitely, that could help. But I think the other plan that the two (2) County workers that I talked to have, grading that hillside. There is one (1) little *puka* or bend out in the road going down Olohena or coming up Olohena, either way there is little bend there. If that stop sign, they have moved it back. If you have been to the intersection, you will see where the thing used to be. When the mirror was there, they have a stop out there. If it comes around there and grade the hillside which is no big deal what the workers told me, you would have a complete sight down Olohena now, no problem. When you stop

there, you would be able to see any cars that are coming up Olohena and that along with they can put the mirror there if they want to, absolutely. They are going to shoot the thing up probably.

Mr. Kagawa: In closing, I think you have helped to bring this to light. We got unanimous approval last time because when Public Works and the Police tell us safety, right?

Mr. Mickens: Right.

Mr. Kagawa: We do not want to – like Mr. Hooser so eloquently put it, it puts us in you a tough spot. We are the voting members and we are getting recommendations from the people who implement and who investigate and they are telling us that it is going to make it safer. Please let the community now that it is not a political thing. We are not trying to dictate to the resident that it is better. We have glass that got shot out and the County is just trying to do the best thing. But if the residents do not want it, obviously, we have to make up our minds today.

Mr. Mickens: Ross, like you said, why did not they put the mirror back up again? Thank you.

Chair Furfaro: Thank you, Glenn. Mr. Rosa.

Mr. Rosa: I am just going to add a little to my testimony from last week. I looked it over and thought it over and like I said, I have to go against what was said by Public Works. Right now, maybe that road Ka'apuni Road is busy because of the school there, because people that are going to bring their children into the middle school there from the upper Homesteads will take that road to drop off their children. After this month, for the summer months, it is probably going to be slow. Before they ever try to think about doing something, why do they not take a traffic count at the intersection and get a vehicle count at the peak times where it is the most dangerous? You could tell because under those traffic count surveys – I worked with traffic count surveys with the Honolulu people when they come here. They can give you the hourly break down of cars and you probably be in the early morning and the mid afternoon when parents go pick up kids and drop off kids. I just had a talk with a prominent homesteader that uses Olohena Road all the time he was go tossing high school and he said he never did stop once in a life on Olohena Road. He said why now? I said that is a good reason that I would like to know myself. You do not put a stop sign on a major thoroughfare, like I just said. It is in the roadmaps of Kaua'i. All your tourist destination maps, Olohena Road is referred to as 581 and when the State put on all of those – I used to call them taro leaf route markers on Kamalu Road, put on 580 from the Coco Palms all the way to the university experiment station and right at Kamalu Road where the century store is, we had a sign saying to Route 581 which is Olohena Road. So, that tells you that Olohena a major thoroughfare and it is going to look ridiculous to put a stop sign on Olohena Road. Like I just said, it is from the citizens from Kapahi use it all the time to go to school and he said up until today, he has not stopped on Olohena Road. After you take a traffic count and you are going to see the peak time, right now it is going to be the school days from 7:30 a.m. probably to 8:30 a.m. and again from 1:30 p.m. to probably 3:00 p.m. that parents are going to use Ka'apuni Road. So, those are the kinds of things to look into. If you make a study, a thorough study, which I do not think the Engineering Department did make a thorough study because in DOT we do something. We sit down there one (1) or two (2) weeks. We

take manual counts and we take individual counts. We can give you a breakdown of anything. I think it is something that Public Works should look into and make other corrections other than to put a stop sign on Olohena Road. Like as I said, continue the double solid line from Kapa'a into Olohena Road, that would define that Olohena is a major thoroughfare and create a side view from Ka'apuni Road looking down to Olohena Road, that should solve should the problem there and make it less – if it is dangerous, why you install an overhead traffic light so the people can see that intersection, if it is that dangerous? That is all “b” all I have to say and I will save some for my later testimony. Thank you.

Chair Furfaro: Thank you, Joe. Anybody else who would like to testify on the item? Public Works and Police Department, when we get to the Resolution, that is when I will ask you to come up. This is the Committee report.

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Mr. Watanabe: Yes. We have a motion to approve and second for the Committee Report.

Chair Furfaro: We do have it.

Mr. Watanabe: Yes, motion and a second. We just have to call for the vote.

The motion for approval of the report was then put, and carried by a 5:0:2 vote (*Mr. Bynum and Mr. Rapozo was noted as excused*).

ECONOMIC DEVELOPMENT (SUSTAINABILITY / AGRICULTURE / FOOD / ENERGY) & INTERGOVERNMENTAL RELATIONS COMMITTEE:

A report (No. CR-EDR 2013-01) submitted by the Economic Development (Sustainability / Agriculture / Food / Energy) & Intergovernmental Relations Committee, recommending that the following be received for the record:

“EDR 2013-01 Communication (04/03/2013) from Council Chair Furfaro, requesting the presence of the Administration to discuss the process for tracking legislative measures at the State Legislature,”

Mr. Hooser moved for approval of the report, seconded by Ms. Yukimura.

Chair Furfaro: Anybody wishing to testify on this item? Seeing no one, I would like to call for a vote on the approval. Any further commentary from Councilmembers?

The motion for approval of the report was then put, and carried by a 5:0:2 vote (*Mr. Bynum and Mr. Rapozo was noted as excused*).

RESOLUTION:

Resolution No. 2013-54 – RESOLUTION ESTABLISHING STOP SIGNS AND STOP LINES ON OLOHENA ROAD AT ITS INTERSECTION WITH KA'APUNI ROAD, KAWAIHAU DISTRICT, COUNTY OF KAUAI: Ms. Yukimura moved for adoption of Resolution No. 2013-54, seconded by Ms. Nakamura.

Chair Furfaro: May I suspend the rules and ask Engineering and the Police Department to please come up?

There being no objections, the rules were suspended.

Chair Furfaro: Gentlemen may I ask you to introduce yourselves?

LYLE TABATA, Deputy County Engineer: Lyle Tabata, Deputy County Engineer, Chair, members of the Council.

ALEJANDRE QUIBILAN, Assistant Chief: Good afternoon, Chair. Ale Quibilan, Assistant Chief, Kaua'i Police Department.

Chair Furfaro: May I just query, is there a traffic study on these merging roads, has one been done?

Mr. Tabata: We have not completed one in recent months or within the last year that I know of. But that will be part of the study when we do create the Capital Improvement Project (CIP) project to look at the reconfiguration of this intersection.

Chair Furfaro: Ale, do you have any counts for us to tell me how many "fender benders" or accidents we have had there?

Mr. Quibilan: Yes, Chair. This morning we pulled some numbers here. Between 2008 through May 15, 2013, we are looking on Olohena Road at the Ka'apuni junction, we are averaging between two (2) and four (4) traffic crashes a year within that time period. Then on Ka'apuni Road at the Olohena Road junction, we are looking at two (2) to three (3) traffic crashes a year between 2008 and May 15, 2013. Of those numbers, roughly about forty percent (40%) were considered major which means either they were some injuries involved or extensive damage to the vehicle, no fatalities.

Chair Furfaro: So between the two (2), we are averaging between four (4) and seven (7) between the two (2) roads?

Mr. Quibilan: At that area, at the juncture.

Chair Furfaro: Per year?

Mr. Quibilan: Yes.

Chair Furfaro: Members, any questions? Mr. Kagawa.

Mr. Kagawa: Lyle, I forgot the date. When was the mirror shot out?

Mr. Tabata: I do not have that. But it was some time in 2012.

Mr. Kagawa: 2012, maybe later part? November?

Mr. Tabata: I have several community requests to replace the mirror.

Mr. Kagawa: That is okay.

Mr. Tabata: Going back I guess July was the first one.

Mr. Kagawa: The mirror has been gone, if it went out in June, maybe a year it is been out?

Mr. Tabata: Yes.

Mr. Kagawa: Shot out. If by chance this Resolution did not pass, would it be difficult for us to replace the mirror?

Mr. Tabata: County Engineer has determined that since it is not an approved MUTC device, our recommendation is not to reinstall a mirror because of liability issues to the County.

Mr. Kagawa: You know that we have one. If you look behind the dump road, in Kapa'a leading up to Laipo, we have a mirror that really, I think, saves a lot of accidents.

Mr. Tabata: If it were to be destroyed, we would not be replacing it.

Mr. Kagawa: Our take is that we have some dangerous hilly and bendy roads, some of which are thoroughfares, and if they are shot out then we are deciding that we are going to establish stop signs to cure the problem?

Mr. Tabata: Well, in some other areas we have put additional traffic warning signs to designate blind curve and we have helped neighbors reconfigure their access towards certain roads in the community. We have had other areas where we have had mirrors and we have not replaced.

Mr. Kagawa: Because, I mean, the thing is that I am not an Officer. I am not an Engineer. But I do know commonsense tells you when you establish stop signs on major thoroughfares, you are going to have more rear-ended accidents. I was just rear ended a week ago by a driver who was not attentive and he hit me pretty hard. But I just know that that is probably one of most highly occurring accidents is the real rear end accident and those can do some bad damage on the body also like back injuries and whatnot that can alter your life. I am just worried that with no left turn storage lane of left turn, or pull out merge type of lane, that creating stop signs on a major thoroughfare like Olohena and I drive there. So, I see the volume of traffic especially early mornings and afternoons. I am concerned that the community could be right, that it may lead to more accidents because of the forced stop signs and people speeding without, I guess, be aware of the speed limit. I am just thinking that if, in fact, the Council decides that let us do a little more due diligence and let us not approve it today. Can we get Public Works to put up the mirror and say, we are going to do it because we know it is safer with the mirror? It is not highway approved, but I am wondering if we are able to re-visit that option?

Mr. Tabata: At this point, no.

Mr. Kagawa:

Thank you.

Mr. Tabata: I would like to add that this is a stop-gap that we are proposing after doing preliminary layout of that intersection and to tell you the truth, what the Committee is saying is right. It is a collector road. In most instances in collector roads, you do not create an intersection with a multiple stop. However, in this case because of the crashes...

Chair Furfaro: Hold on to that thought because we need to do a tape change. Five minutes (5), B.C.? Five (5) minutes for a tape change.

There being no objections, the Council recessed at 2:29 p.m.

There being no objections, the Council reconvened at 2:33 p.m., and proceeded as follows:

Chair Furfaro: We are back in session. You were responding and I will give you back the floor. Go ahead.

Mr. Tabata: Thank you, as I was saying that with the reports from the community our Engineering Division went out as well as our Roads Division, along with myself and we looked at multiple opportunities that we could complete as quick fixes. So, creating the multiple stop was the fastest way for us to address this issue while we then take the time to adequately study the entire situation which includes the traffic studies and the geometry of the area and as I mentioned earlier, may include a possible land acquisition requirement.

Mr. Kagawa: If I can, just one follow-up? I guess maybe this is for Ale. Ale, we had, I think, three (3) accidents in 2012, three (3) accidents in 2011, do you think that if we adopt the Resolution, do you think we can expect at accidents or do you think it will go down from three (3)? I know it is hard to tell, rubbing a crystal ball, but what is your guess? That it will go down or may stay the same?

Mr. Quibilan: I think just based on the history of the number of traffic crashes on the scene, I think we will remain steady.

Mr. Kagawa: Thank you.

Chair Furfaro: Mr. Hooser.

Mr. Hooser: I am not sure if I heard what you said. So, the rate of accidents/crashes will remain steady probably with or without the stop signs?

Mr. Quibilan: That is my best guess.

Mr. Hooser: If we add the stop signs, there may not be? It is just another reason why I wonder why we have to do this if we cannot really expect there to be no accidents or significantly less accidents. I have to say, a lot of what drives, I think, all of us is the citizens complaints and I have gotten no complaints at all on this. In fact nothing, but E-mails telling me do not do it from the community members. It is really hard when the entire community is saying – I should not say the entire community, the entire amount of E-mails and calls that I

am getting are that they do not like this idea and they do not think it is necessary. Now we are not confident it is really going to decrease the number of crashes. Are there any interim solutions other mitigation measures such as Mr. Mickens had talked about? At the minimum trimming the vegetation, if not grading the hillside a little bit there. Perhaps putting warning lights, flashing lights coming up the road to slow down or other ways that we can make the area a little bit safer without putting a four (4) way stop at a collector road?

Mr. Tabata: As I mentioned, when we did our field recognizance, we looked at the removal of the vegetation and what we felt was needed to be removed was removed. We look at the grading to cut the hill further, but that would compromise the KIUC main transmission line. So, from where we tried to layout and we also tried to relay out the entry way from Ka'apuni to Olohena and that created a situation where the school bus would stick out the back end into the other oncoming lane.

Mr. Hooser: The vegetation, did the County just recently cut that back as far as they could?

Mr. Tabata: Yes. Since we have had more recommendation to cut further back, however, that first turn coming up Olohena towards the intersection at Ka'apuni is a pretty covered area. I do not think it would open it up enough especially with the speeds. The bottom line is the speed, I guess. If people were to drive the speed limit.

Mr. Hooser: It would be okay?

Mr. Tabata: It would probably be okay. But people do not behave so we came up with this interim measure.

Mr. Hooser: Are there any other calming devices, strips or something that you can put on the road to reduce the speed or warning light?

Mr. Tabata: Possibly, anything is possible. We just wanted to do something right away that we felt was the fastest cure and not saying that we are not going to look at more opportunities.

Mr. Hooser: I understand, I appreciate the dilemma also, and looking for other alternatives.

Mr. Tabata: I am not sure how many negative responses you had, but on the flipside, we have had multiple positive requests.

Mr. Hooser: For whatever reason they have not called me or sent me E-mails specific to this place. Thank you. Thank you, Chair.

Chair Furfaro: JoAnn.

Mr. Yukimura: How much would education help if you conduct an education campaign before you institute these devices or this new situation?

Mr. Tabata: If the Resolution is passed and we are allowed to implement this measure, we would first off do public notice in the newspaper and

then post electronic warning signs of the impending traffic change, and then part of it was to install the stop signs and in addition after the last few meetings, we also intend to install stop ahead signs in advance of the stop.

Ms. Yukimura: Are those electronic signs?

Mr. Tabata: No.

Ms. Yukimura: Following up on Councilmember Hooser's question, what if were to put speed tables or speed humps before you even initiate the stop?

Mr. Tabata: So, that is another device that is not recommended for a major collector. In fact, as part of the Traffic Code not to install these type of speed control devices on a collector road.

Ms. Yukimura: But if speed is a problem and these devices can slow cars down and you would do it with all the other signs that are forecasting the coming of a stop, would that help as an educational effort?

Mr. Tabata: Well, we would have to work with our emergency service groups, the Fire Department, the ambulance, and so forth because those impede their ability to respond.

Mr. Hooser: Follow-up.

Mr. Tabata: But there are other devices that we can investigate.

Ms. Yukimura: There are other devices?

Mr. Tabata: Well, I think at the Po'ipū charrette you saw some.

Ms. Yukimura: Can you suggest some of them that would be applicable here?

Mr. Tabata: There is additional striping that can be to initiate the allusion of narrowing of roads and so forth.

Ms. Yukimura: I know Councilmember Hooser has a follow-up, but just to finish the series, you could put in those devices and then do traffic counts or speed observations or something to see whether those are slowing people down as preparation for the four (4) way stop?

Mr. Tabata: We would have to investigate the options.

Mr. Hooser: Just a brief follow-up.

Chair Furfaro: Yes, go ahead Mr. Hooser.

Mr. Hooser: The traffic-calming devices I was thinking of was not a speed hump but more like a rumble strip, just a noise making that does

not slow anybody. It will not slow an ambulance down. Are you familiar with what I am talking about?

Mr. Tabata: Yes.

Mr. Hooser: It seems like I have seen those on major highways. It just kind of make noise and those are not allowed on collector roads? I could see a speed bump not being allowed.

Mr. Tabata: I need to follow-up. But the areas that I do know of that they have been installed were quickly removed because of the noise that it created and it disturbed neighborhoods.

Mr. Hooser: Right. I was just trying to determine whether they are allowed on collector roads or not and I could imagine how a speed bump would not be allowed, but these devices I would think are allowed. That was the question, I guess. Thank you.

Chair Furfaro: JoAnn and then Vice Chair Nakamura.

Ms. Yukimura: The protest is pretty vociferous from people who use the road everyday which is why I think we are all trying to figure out what the issue is for people. I do not think they are just trying to stop something. I think they are genuinely concerned and I know you guys are genuinely concerned too. There is some talk about how difficult it is to stop going uphill. I do not know if – and stick shifts going uphill although if you know how to drive a stick shift, you should know how to handle it because I give some honor to people who use it every day because they are very familiar with that road. I am just wondering if you folks have you seen the letters, and the E-mails that we have been getting?

Mr. Tabata: No. I have only received one (1) negative E-mail.

Ms. Yukimura: Can we give them both copies so they can just take a look and I do not know—it just seems before we do anything, we should really listen carefully to what they are trying to say in case there are ways to address their concerns or in case they just have some legitimate concerns that we have overlooked. Thank you.

Chair Furfaro: Gentlemen, and to the members, we have been twenty (20) minutes on this subject for something that came out of Committee unanimously approved. So, if the vote turns out that you need to revisit this then you need to come back to request to be on the Committee agenda again.

Mr. Tabata: Understood.

Chair Furfaro: I just want to remind everybody that I am hearing things for the first time. I did not vote on the first one, but I sat through it. I am hearing new things today that could have been part of the solution and those are the kind of things that I share with you, that work should be done in Committee and not with the full Council. I just want to tell you that is another option if the vote changes at the full Council today, you will have to come back to Committee with a request. Who else wants the floor? Go ahead, Vice Chair Nakamura.

Ms. Nakamura: Thank you for being here. I wanted to ask you about the number of accidents that have taken place between four (40) to seven (7) a year at this intersection. Just to get a sense of comparison, is this considered low, medium or high in terms of number of the accidents?

Mr. Quibilan: I would have to say it is a low number.

Ms. Nakamura: A low number.

Mr. Quibilan: On an annual basis, it is a low number.

Ms. Nakamura: When you say forty percent (40%) are major accidents "major," how did you define "major" again?

Mr. Quibilan: Major accidents is defined as damages three thousand (\$3,000) or more to the vehicles or if there was an injury reported in the traffic crash. It could be a minor thing like a sore neck.

Ms. Nakamura: So, this is not like a high priority intersection from KPD's perspective?

Mr. Quibilan: No, it is not. We have not focused on this intersection as being problematic.

Ms. Nakamura: This is a question for Lyle. In terms of looking at a long-term fix, I know at one point, I thought that the thought was that if Kapa'a highlands ever got developed that, that would be an improvement that perhaps the developer could be asked to assist with. But absent that, do you believe that the County should look at a long-term fix for this intersection?

Mr. Tabata: Yes, we intend to. It is a collector road and it is federally funded and we can leverage funds to accomplish this.

Ms. Nakamura: Oh, so we have access to those Federal funds?

Mr. Tabata: Yes.

Ms. Nakamura: As part of that long-term fix, that is where you would probably do a traffic study and do a little bit more in-depth assessment?

Mr. Tabata: Yes.

Ms. Nakamura: Thank you.

Mr. Tabata: It would be funded through that project.

Ms. Nakamura: Then try and leverage the Federal funds so that we can limit the County's contribution?

Mr. Tabata: Yes.

Ms. Nakamura: That would be great. Then this could be a priority moving forward or it is a priority?

Mr. Tabata: Safety improvement as we came to Council to get approval for Kōloa Road, are a high priority for us.

Ms. Nakamura: Thank you very much.

Chair Furfaro: JoAnn.

Ms. Yukimura: One more question because I know we said in Committee that this is related to Safe Routes to School.

Mr. Tabata: Yes, we can connect it to that.

Ms. Yukimura: Yes, because the school is just down the way. Would these temporary improvements that you are talking about at this point increase safety to school? Although, I cannot imagine that the kids actually walk on those roads to school, do they?

Mr. Tabata: Well, there is a walkway that comes from Kapa'a town.

Ms. Yukimura: Right.

Mr. Tabata: That comes across and right at the end of the rise, at the end of the guardrail there is a crosswalk that goes to the school. So, that is on the opposite end, of course. I am not familiar with the students walking.

Chair Furfaro: Excuse me, Glenn and Joe, please gentlemen, we can hear your conversation over the Engineer's conversation. Go ahead, Lyle.

Mr. Tabata: I can get our Safe Routes to School Committee to do that – I am not sure if we completed surveys at the middle school, but we can complete those. That will determine where the students who do walk come from, walk and bike.

Ms. Yukimura: Well, if you just take the crosswalk that connects the pathway down to Kapa'a Town and the school, if there is speeding coming down the hill, then the stops arguably would slow them down before they get to the crosswalk. So, that would be a plus for any schoolchildren who are using that route.

Mr. Tabata: Right.

Ms. Yukimura: Otherwise, if it queues, that is I have no idea how heavy the traffic can get, but I guess at school time it can get heavy. Would a four (4) way stop cause a line of cars to line up down towards the crosswalk and create complications there?

Mr. Tabata: I do not believe so because it is in the opposite direction of the traffic flow.

Ms. Yukimura: What is in the opposite direction?

Mr. Tabata: The four (4) way stop is on the upside so the queue would not be at the intersection.

Ms. Yukimura: Why will it not be if you are going back onto...

Mr. Tabata: You mean towards the middle school?

Ms. Yukimura: No, no. If you are going back on Olohena Road, you are going back up *mauka* and I do not know if there is a line that forms backing up towards the school of the cars going up *mauka*, so they would be in the right hand lane.

Mr. Tabata: They would be going beyond the school.

Ms. Yukimura: Right. So, there is not a problem with cars lining up on a heavy school time where families are driving? They are dropping off their kids and then turning around to go back *mauka*. That is not a problem?

Mr. Tabata: We do not believe so because of the distance.

Ms. Yukimura: Alright. Thank you.

Chair Furfaro: Members, I am getting ready to call for the vote here. You have another question?

Ms. Yukimura: Well, one possibility is to defer this thing subject to Public Works coming back with some other ideas.

Chair Furfaro: Sure. That is another possibility. But I am just saying what my policy is. I had hope this kind of work would be done in Committee, especially with a day like today when we have eleven (11) Executive Sessions.

Ms. Yukimura: Right and I guess we were not aware in Committee of all of these issues because the public E-mailed us after the Committee.

Chair Furfaro: I got the same E-mails. I understand where you are coming from. But there was a lot of discussion that happened today that could have happened at Committee.

Ms. Yukimura: I guess one last question.

Chair Furfaro: Go ahead, you have the floor.

Ms. Yukimura: If we do not approve this today, what would your options be or what do you think you would do in terms of thinking it through again or reviewing the issues and then coming back to us?

Mr. Tabata: We would have to regroup because the multiple stop was the fastest solution for us that we looked at.

Ms. Yukimura: Will you look at things like traffic calming prior to initiating the multiple stop?

Mr. Tabata: We will revisit the whole – yes. We will look at all the options available to us.

Ms. Yukimura:

Alright. Thank you.

Chair Furfaro: To the Clerk's Office, I just want to get some clarification. Even though we have a motion here to approve, the reality is a deferral would certainly trump the approval. I just repeated that out loud so that all of you know. Deferral, there will be no further discussion and it will come back in two (2) weeks. Hopefully by then, we have had some more understanding of the problem. You want the floor, JoAnn? I will give you the floor.

Ms. Yukimura: Well, I am just trying to think it through. We could either defer it in two (2) weeks or defer it subject to their return with an alternative solution or we could receive it or just not vote for it and then they would come back at some point with a new proposal?

Chair Furfaro: And knowing it would go to Committee first with additional solutions, recommendations, and so forth. If it is deferred there is not any interaction time and it comes back directly to the Council in two (2) weeks. But you would have to remove your motions if it is not a deferral or if you find yourself voting "no" on this, it will be up to the Administration to come back after their risks research.

Ms. Yukimura: Will there be a moment for discussion before we vote?

Chair Furfaro: Yes, I will certainly do that. I just want to make sure that all of the pieces are out on the table. Gentlemen, I am going to ask if there is anymore testimony in the group. I think Joe and Glenn, I think you have told us your point of view. I do not think there is any need to come back. I am seeing Joe acknowledging me but I am see Glenn putting his finger up. Rules are still suspended

Mr. Mickens: Just one thing, I would hope that Mr. Tabata would at least – he says he had nothing but positive things to put that sign up. You have all got copies of yours passed around. I would like to see who is for this thing. The report that the Officer had. I think that was excellent and he said to Ross.

Chair Furfaro: We will give you a copy of the Officer's report today.

Mr. Mickens: Good.

Chair Furfaro: We have a copy.

Mr. Mickens: But as I pointed out, he said putting stop signs in there would not do it. JoAnn's suggestion about speed tables and speed humps, you do not put speed tables on a major artery, that is a no-no. Who was it talking about the rumble strip they put down? That might be a possibility. I do not know. But for me, I guess it is the driver. It is not the intersection. Whether the guy is speeding or drunk or whatever it happens to be, it is the driver's fault. It is not the fault of the intersection what people are doing. You can say well put a Cop up there continually and let the Cop monitor speeding or whatever it may be as an alternate solution. But I do not think from the accidents and you heard the Officer say that it was low priority as far as accidents on that particular place. I do not think it would have to be. Anyway, thank you, Jay.

Chair Furfaro: Mr. Rosa, you already told me you were not going to speak again. Now, you are going to speak again? When I asked the question I saw your head speaker. But you have the floor. Timer, please.

Mr. Rosa: Getting back to what I wanted to say, Jay. You had accidents, but what kind of accidents are those? I know of people having accidents there running off the road. I know of people having accidents for right-of-way violations, they do not know who has the right-of-way to go forward or whatever what you come to a three (3) way intersection. Those are the kinds of thing when you look into accidents to see and great a breakdown, not just go by greatest majority. When I was with DOT and the North Shore bridges, that is what we broke down for side swiping or two (2) car accidents or like one person said, because of the cat came on the bridge and he tried to avoid the cats and he side swiped the bridge. Those are the kind of things that were accidents. So, you have to look at, like I just said. I do not think they had a complete survey of the traffic during the school days in the morning and in the afternoon for pickup and drop-off. Like I just said, the traffic is going to increase because people from Kapa'a said with the middle school, the upper Kapahi Homestead people said they save time from coming all the way down and coming up the hill to drop the kids off at school. Those are the things to look into. Where and why it is busy? I know JoAnn has her concerns. Maybe she cannot picture why it has more traffic from the upper Homesteads Ka'apuni Road because there is probably more middle school kids because of the younger generation in the upper housing in that area. Is the amount of gas and then she is all talking about saving gas and things, sure they are going to us Ka'apuni Road that saves them a lot of time to come down from Kawaihau Road and come all the way up into Olohena to make the drop off. So, people are getting a little bit smart. To me, this survey that the Engineering staff took was something quick and fast. A Band-Aid job does not solve somebody fast and quick because of one (1) major complaint. As I said, they had people at night over there that ran off the road there because it is dark and maybe they did not understand to get to Olohena Road they are speeding so they misjudged and flipped over. Those are the things that contribute to accidents. There was no major head-on kind where death occurred. I never heard of anybody dying from the intersection. Maybe Alejandro can get the breakdown from because I know DOT gets all of the accident reports before from the Police Department or State Highways. At times I had to go and file those reports. I think your Engineering Department should do a more thorough study on those investigations also.

Chair Furfaro: Thank you, Joe, that is your time.

Mr. Rosa: I could add a little bit more but I know, Jay you have complaints and from what I have to say, I can give the Engineering Department a more complete picture of work that they have to do and not just shoving things down the public's throat. Thank you.

Chair Furfaro: Thank you. I am going to call the meeting back to order.

There being no objections, the meeting was called back to order, and proceeded as follows:

Chair Furfaro: Obviously, I want to acknowledge the Police Department and the Engineering Department for their work up to this time.

Certainly I heard a couple other things that dealt with also trying to find a long-term solution. But what we have right now is a motion to approve this Resolution and I would like to see if we have some discussion before I call for the vote? Does anybody have further discussion? Mr. Kagawa.

Mr. Kagawa: Thank you, Mr. Chair. First of all, I would like to thank Lyle and Ale for their recommendations. I think their recommendations are good based on what we have. We have a situation there, Olohena Road, it is not is your ideal thoroughfare that comes off another main road of the Ka'apuni that tries to get there especially in that area. It is a windy, big bend, there is a hill, there is some blockage of sight, and people occasionally fly up that road. That is why we had something so unusual are a round mirror that was really helpful. It was helpful for me. it was helpful for most people who got used to it. If you use that mirror, you can clearly see whether a car is coming around that bend. Now the mirror is gone. I am sure Lyle's guys have had Public Works, the Mayor's Office, they have had many requests probably coming into the Office about replacing that mirror that we all loved. However, I think Public Works has decided that let us look for a long-term solution. Let us not put up a mirror that I guess is not Federally approved as a safety method. To me, it is a bad road with Ka'apuni coming off it. It should not have been that way. But we cannot turn back the clock on this. I think we do need a long-term solution. I am just kind of concerned that Public Works or the Administration has not talked to people like the Neighborhood Association and tried to get them to buy into our long-term plan. Instead, I am sense something anger and frustration that we are kind of slamming something down the community's throat and I think it is not the case. I think if we work together with the community, we can look for some solution where we both can work together and come to a solution. I think that is what Glenn's folks had asked, to come and talk to us and I think that it is really the Administration that needs to come and it talk to you folks because they are the experts and we just approve their recommendations. Hopefully we can come to a better solution at some point on this. But today, I am not ready to support this Resolution. Thank you.

Chair Furfaro:

Ms. Yukimura.

Ms. Yukimura: I want to commend the initiative of Deputy Engineer Tabata and Assistant Chief Quibilan in trying to address a problem. I know that Glenn has said, I think it was Glenn, that said it is the driver not the road. The problem is that sometimes more than the driver is affected. Other people are affected and so we have to make our roads as safe as possible. I see an effort here to try to do it. But apparently there needs to be more thinking done on this issue. I am going to be voting against it, but I hope it is my vote against it is not an interpretation that I am against efforts to make the road safer. I am just thinking that we need to get more public input if possible or try a few other things that will introduce the public, the driving public, to the ultimate temporary solution of a multiple stop. In terms of that mirror, maybe there is *menehune*. I know that the County cannot put in a device like that, but maybe a good Samaritan or a community angel can put that back up there if it was so helpful even though it is not an official traffic device. Thank you.

Chair Furfaro:

Vice Chair.

Ms. Nakamura: Again, thank you Lyle and Ale for being here and for your presentations today. I wanted to support this but given the feedback that we have received and give the fact that is not a high accident area, that we

should probably focus our energy on that long-term fix, to do the studies, to do the work, to communicate with the community, and then come together on what is the long-term solution here. The other thing that I think is really important that came out of this conversation is having a list of those high accident rate intersections because I think going forward, that is where with should be spending our energy and our resources. I would like ask to ask staff to prepare a communication to the Police Department to get a current list, to kind of look back at maybe the last five (5) years just so that we have good data that we can share with the Public Works Department and focus on those high accident intersections.

Chair Furfaro: May I ask, would you ask that correspondence to identify the top six (6) for us?

Ms. Nakamura: Thank would be fine. Actually, I would not want to limit it to six (6) because if it is in one area of the island, I think I would want a little broader reading of where those accidents are and then prioritize once you have that list. We will leave it up to the Police Department to determine. Thank you very much.

Chair Furfaro: Mr. Hooser, did you want to add anything more before I call for the vote?

Mr. Hooser: No.

Chair Furfaro: My comment on the top six (6) is the reality, if we have six (6) to fix, that is a big task and we can prioritize them. If we end up with a list of twenty-four (24), that may never be prioritized to get to the worst. But anyway, we will follow-up with your communication. Members, it is great to have traffic information. Did you want to speak again, before I speak and close the vote? The floor is yours.

Ms. Yukimura: I just want to say in terms of picking priorities, that just the level of traffic accidents may not be the only criteria we want to look at. The fact it is close to the school is perhaps another factor. It feels to me like a roundabout really would help because some of the complaints are that people have to stop, but a roundabout would help them just keep going. But how we put this in all the priorities, it is true, we should leave it up to Public Works. Thank you.

Chair Furfaro: Anybody else? Anyway, I just want to say that I appreciate all the work and any accident, anywhere is one too many, quite frankly. But we have a motion to approve. If it does not pass, the Administration's option is to come back to the Committee with some expanded information at this point. But let us call for the vote and see what happens. Roll call vote, please.

The motion to adopt Resolution No. 2013-54 was then put, and carried by the following vote:

| | | |
|-----------------------|---------------------------|------------|
| FOR ADOPTION: | None | TOTAL – 0, |
| AGAINST ADOPTION: | Hooser, Kagawa, Nakamura, | |
| | Yukimura | TOTAL – 4, |
| SILENT & NOT VOTING: | Furfaro | TOTAL – 1, |
| EXCUSED & NOT VOTING: | Bynum, Rapozo | TOTAL – 2, |
| RECUSED & NOT VOTING: | None | TOTAL – 0. |

Ms. Fountain-Tanigawa: Five (5) noes.

Chair Furfaro: You have any silent vote is basically let us focus on getting the work done in the Committees. But my vote goes with the majority of the group as a silent. So, it is 5:0. Now I would like to say that...

Ms. Fountain-Tanigawa: Council Chair, we need a motion to dispose of the Resolution so either to receive or defer.

Chair Furfaro: Can we have a motion for the disposal. By receiving the Resolution, it is being disposed of.

Ms. Yukimura moved to receive Resolution No. 2013-54 for the record, seconded by Ms. Nakamura, and carried by a vote of 5:0:2 (*Mr. Bynum and Mr. Rapozo excused*).

Chair Furfaro: Consider it disposed. Thank you. Members, we have Attorneys that are waiting for us. But if we can go through these Bills For First Reading, then we have cleaned up the agenda except for those that we have to come back to and I will ask the County Attorney to come up. So, let us go to Bills For First Reading.

BILLS FOR FIRST READING:

Proposed Draft Bill (No. 2464) – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE: Ms. Nakamura moved for passage of Proposed Draft Bill No. 2464 on first reading, that it be ordered to print, that a public hearing thereon be scheduled for June 26, 2013, and that it thereafter be referred to the Planning Committee, seconded by Ms. Yukimura, and carried by the following vote:

| | | |
|-----------------------|--|------------|
| FOR PASSAGE: | Hooser, Kagawa, Nakamura, Yukimura, Furfaro | TOTAL – 5, |
| AGAINST PASSAGE: | None | TOTAL – 0, |
| EXCUSED & NOT VOTING: | Bynum, Rapozo | TOTAL – 2, |
| RECUSED & NOT VOTING: | None | TOTAL – 0. |

Ms. Fountain-Tanigawa: Five (5) ayes.

Chair Furfaro: Jade, let me note there is nobody in the public on the last item. The two (2) gentlemen that were there, I let them speak twice. Next item, please.

Proposed Draft Bill (No. 2483) – A BILL FOR AN ORDINANCE AMENDING CHAPTERS 7, 8, AND 9 OF THE KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE ADJUSTMENT OF VARIOUS PERMITTING CHARGES AND FEES LEVIED BY THE DEPARTMENT OF PLANNING (ZA-2013-4) (County of Kaua'i, Applicant): Ms. Nakamura moved for passage of Proposed Draft Bill No. 2483 on first reading, that it be ordered to print, that a public hearing thereon be scheduled for June 26, 2013, and that it thereafter be referred to the Planning Committee, seconded by Ms. Yukimura.

Chair Furfaro: We do have an amendment coming around.

Ms. Nakamura: Yes, Chair, this amendment reflects an addition from the Planning Commission. We would like to read this into the record and circulate as amend.

Ms. Nakamura moved to amend Proposed Draft Bill No. 2483 as circulated, as shown in the Floor Amendment which is hereto as Attachment 1, seconded by Ms. Yukimura.

Chair Furfaro: Any questions dealing with the floor amendment? I will call for a vote on the floor amendment first. May I?

Ms. Fountain-Tanigawa: Do you want a roll call?

Chair Furfaro: Yes.

The motion to amend Proposed Draft Bill No. 2483 was then put, and carried by the following vote:

| | | |
|-----------------------|--|------------|
| FOR AMENDMENT: | Hooser, Kagawa, Nakamura, Yukimura, Furfaro | TOTAL - 5, |
| AGAINST AMENDMENT: | None | TOTAL - 0, |
| EXCUSED & NOT VOTING: | Bynum, Rapozo | TOTAL - 2, |
| RECUSED & NOT VOTING: | None | TOTAL - 0. |

Ms. Fountain-Tanigawa: Five (5) ayes on the amendment.

Chair Furfaro: Five (5) ayes on the amendment. We will go to the item itself now.

Ms. Fountain-Tanigawa: This is Proposed Draft Bill 2483 as amended. There is a motion to approve and second.

Ms. Nakamura moved to approve Proposed Draft Bill No. 2483, as amended, seconded by Ms. Yukimura.

Chair Furfaro: Roll call vote, no further discussion, that is what I was waiting for.

The motion for passage of Proposed Draft Bill No. 2483 as amended was then put, and carried by the following vote:

| | | |
|-----------------------|--|------------|
| FOR PASSAGE: | Hooser, Kagawa, Nakamura, Yukimura, Furfaro | TOTAL - 5, |
| AGAINST PASSAGE: | None | TOTAL - 0, |
| EXCUSED & NOT VOTING: | Bynum, Rapozo | TOTAL - 2, |
| RECUSED & NOT VOTING: | None | TOTAL - 0. |

Ms. Fountain-Tanigawa: Five (5) ayes.

Chair Furfaro: Thank you, next item.

Proposed Draft Bill (No. 2485) – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 14, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE

PLUMBING CODE: Mr. Kagawa moved for passage of Proposed Draft Bill No. 2485 on first reading, that it be ordered to print, that a public hearing thereon be scheduled for June 26, 2013, and that it thereafter be referred to the Public Works / Parks & Recreation Committee, seconded by Ms. Yukimura.

Chair Furfaro: Any discussion? Let the record show that no one is in the public audience. Lets us go with a roll call.

The motion for passage of Proposed Draft Bill No. 2485 was then put, and carried by the following vote:

| | | |
|-----------------------|--|------------|
| FOR PASSAGE: | Hooser, Kagawa, Nakamura, Yukimura, Furfaro | TOTAL - 5, |
| AGAINST PASSAGE: | None | TOTAL - 0, |
| EXCUSED & NOT VOTING: | Bynum, Rapozo | TOTAL - 2, |
| RECUSED & NOT VOTING: | None | TOTAL - 0. |

Ms. Fountain-Tanigawa: Five (5) ayes.

Proposed Draft Bill (No. 2486) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 16 AND CHAPTER 19, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO ABANDONED VEHICLES: Ms. Yukimura moved for passage of Proposed Draft Bill No. 2486 on first reading, that it be ordered to print, that a public hearing thereon be scheduled for June 26, 2013, and that it thereafter be referred to the Environmental Services / Public Safety / Community Assistance Committee, seconded by Mr. Kagawa.

Chair Furfaro: Discussion? If not, roll call, please.

The motion for passage of Proposed Draft Bill No. 2486 was then put, and carried by the following vote:

| | | |
|-----------------------|--|------------|
| FOR PASSAGE: | Hooser, Kagawa, Nakamura, Yukimura, Furfaro | TOTAL - 5, |
| AGAINST PASSAGE: | None | TOTAL - 0, |
| EXCUSED & NOT VOTING: | Bynum, Rapozo | TOTAL - 2, |
| RECUSED & NOT VOTING: | None | TOTAL - 0. |

EXECUTIVE SESSION:

Chair Furfaro: As a note, we are going to Bills for Second Reading, but Bill No. 2460 I disposed of early this morning. Now if I can have the County Attorney up and while he is walking up. First of all, ES-634 was a scheduled discussion if necessary about the quarterly report on claims. If there is no further discussion on that, we could either receive or defer this one. I would prefer that we receive it, so this is item 634. May I have a motion?

ES-634 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), on behalf of the Council, the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing, discussion and consultation regarding the quarterly report on pending and denied claims. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item: Mr. Kagawa moved to

receive ES-634 for the record in open session, seconded by Ms. Nakamura, and unanimously carried.

Chair Furfaro: The next item I would like to do the same is ES-629 which deals with maybe some premature labor negotiations. I would like to either defer or receive this one as well.

ES-629 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(3), and (4), and Kaua'i County Charter Section 3.07(E), the purpose of this Executive Session is for the Council to address issues relating to on-going labor negotiations and related matters and to consult with the County Attorney. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item: Ms. Nakamura moved to receive ES-629 for the record in open session, seconded by Mr. Kagawa.

Ms. Yukimura: Chair?

Chair Furfaro: Yes, JoAnn.

Ms. Yukimura: I think I requested this and there may have been others, but I feel like it is worthwhile to get a progress report about where things are and what the different ramifications are.

Chair Furfaro: Then let us look to defer.

Ms. Yukimura: Yes, if that is okay.

Ms. Nakamura withdrew her motion to receive ES-629 for the record in open session, seconded by Mr. Kagawa.

Chair Furfaro: You did not need to. If there is a deferral, it trumps a receipt.

Mr. Kagawa: Sorry.

Ms. Yukimura: The reason why we are not having it today is because?

Chair Furfaro: There is not any clear update on the negotiation.

Ms. Yukimura: Right. Let us defer. But even if there is no clear result in two (2) weeks or I guess the 12th is our next meeting, I think some kind of briefing would be in order.

Ms. Yukimura moved to defer ES-629 in open session, seconded by Mr. Kagawa.

Chair Furfaro: We have a second, no further discussion. All those in favor this deferral will be for two (2) weeks. Roll call, is not necessary, but I want one.

The motion to defer ES-629 was then put, and carried by the following vote:

| | | |
|-----------------------|--|------------|
| FOR DEFERRAL: | Hooser, Kagawa, Nakamura, Yukimura, Furfaro | TOTAL – 5, |
| AGAINST DEFERRAL: | None | TOTAL – 0, |
| EXCUSED & NOT VOTING: | Bynum, Rapozo | TOTAL – 2, |
| RECUSED & NOT VOTING: | None | TOTAL – 0. |

Chair Furfaro: We have five (5) ayes to defer for two (2) weeks.

Ms. Yukimura: To the next meeting, I think it is three (3) weeks.

Chair Furfaro: Three (3) weeks.

Ms. Fountain-Tanigawa: And that would be for written update?

Chair Furfaro: Yes. Again, because there is five (5) Wednesdays in the month, we skip a week. So, in three (3) weeks, that is correct. I would also like to take care of ES-628 dealing with a briefing on information from Tokuda.

ES-628 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney, on behalf of the Council, requests an Executive Session with the Council to provide the Council with a briefing to update the Council in Lynell Tokuda, et al. vs. Chris Calio, et al., Civil No. 13-1-0049 RV (Fifth Circuit Court) and related matters. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item: Mr. Kagawa moved to receive ES-628 for the record in open session, seconded by Mr. Hooser.

Ms. Yukimura: Question.

Chair Furfaro: Yes, JoAnn.

Ms. Yukimura: Let us see, this is not an issue that we...

Chair Furfaro: Is time sensitive at this point. But it is something when we have a need for a briefing, we will be rescheduled.

Ms. Yukimura: It is to receive right now?

Chair Furfaro: Yes.

Ms. Yukimura: Thank you.

The motion to receive ES-628 for the record was then put, and unanimously carried.

Chair Furfaro: The last one is procurement issue, Executive Session 610, I would like to either receive or defer.

ES-610 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), on behalf of the Council, the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing related to the procurement matter and recommendations as stated in the Management Advisory Report Finding 12-01 "Review Purchasing and Procurement Process of Independent Contractors," and related matters. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item: Ms. Yukimura moved to receive ES-610 for the record in open session, seconded by Mr. Kagawa.

Chair Furfaro: Any discussion?

Ms. Yukimura: We can repost it. I though know it is something that Councilmember Rapozo wanted.

Ms. Nakamura: Yes.

Ms. Yukimura: We have been deferring it because it is being lower priority to a lot of urgent things we have had to deal with. In moving to receive, I am not saying necessarily we should not have it on the agenda the next time.

Chair Furfaro: Well, that is why I gave you two (2) choices. If you wanted to come back specifically the next time, I will take a deferral.

Ms. Yukimura: The 12th is really full already. I do not know that we should defer it. Maybe we should have it more subsequent to the 12th.

Chair Furfaro: It is really full, fuller than a young little leaguer eating pickled mango in the park.

Ms. Nakamura: Would it be possible to defer to the meeting after the 12th?

Chair Furfaro: We can defer for five (5) weeks if you would like.

Ms. Nakamura: That would be my preference because this has been one that has been deferred many times and I believe it is important to one Council member who has brought it to our attention. I would like to not receive it.

Ms. Yukimura withdrew her motion to receive ES-610 for the record in open session.

Chair Furfaro: Does anybody wait for a chance to be recognized by the Chair anymore? Three (3) conversations are going on. You have the floor, you asked the first question. You asked about the deferral?

Ms. Yukimura: Right.

Chair Furfaro: Do you want to defer it for two (2) weeks, or three (3) weeks, or specifically for five (5) weeks?

Ms. Yukimura:
move to defer for five (5) weeks.

That is right, you do not need to withdraw. I

Ms. Fountain-Tanigawa:

Which would be the meeting of June 26th.

Chair Furfaro:

Yes.

Ms. Yukimura moved to defer ES-610 to June 26, 2013 in open session, seconded by Mr. Kagawa.

Chair Furfaro: Are you satisfied with that Councilwoman? I have a second from Mr. Kagawa. No further discussion on a deferral.

The motion to defer ES-610 to June 26, 2013 was then put, and unanimously carried.

Chair Furfaro: Thank you very much. I want you to know I am a really nice guy. Al, we have the rest of the Executive Sessions to be read off by yourself.

There being no objections, the rules were suspended.

Mr. Castillo: I am wondering if you would like to take ES-637 as it is an incorrect posting.

Chair Furfaro: Al, I did that earlier.

Mr. Castillo: Oh, you did that earlier?

Chair Furfaro: I did that earlier.

Ms. Yukimura: We received it.

Mr. Castillo: I am sorry. Thank you.

Chair Furfaro: What number did you have, I want to read it again?

Mr. Castillo: 637.

Chair Furfaro: Yes, I did that one earlier before we went on break, yes.

Mr. Castillo: Then I am to read number four,

Chair Furfaro: 610 has been deferred or received, ES-628 deferred or received, ES-629 has been deferred, ES-634 has been received, and as I answered you ES-637 has been received.

Mr. Castillo: Then I will read the remaining.

Chair Furfaro: Yes, starting from ES-630.

Mr. Castillo: Thank you.

ES-630 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-5(a)(4) and Kaua'i County Charter Section 3.07(E), the purpose of this Executive Session is to allow Council to consult with the County Attorney and Director of Finance on questions and issues pertaining to car allowances and related matters. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-635 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Section 3.07(E) of the Kaua'i County Charter, the Office of the County Attorney, on behalf of the Director of Finance, requests an Executive Session with the Council to provide the Council with a briefing and request for approval of proposed tax compromise with AOA of Kulana Condominium, and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-636 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Section 3.07(E) of the Kaua'i County Charter, the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing to update the Council in Tim Bynum vs. County of Kaua'i, et al., Civil No. CV12-00523 RLP (U.S. District Court) and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-638 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and (8), and Kaua'i County Charter Section 3.07(E), the purpose of this Executive Session is to provide the Council with a briefing in Ricky L. Ball vs. Kaua'i Lagoons Resort Company, Ltd., et al., Civil No. 12-1-0289 JKW (Fifth Circuit Court), and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities and/or liabilities of the Council and the County as they relate to this agenda item.

ES-640 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and (8), and Kaua'i County Charter Section 3.07(E), the purpose of this Executive Session is to provide the Council with a briefing in Jeffery Sampoang vs. Harvey Brothers, LLC, et al., Civil No. 12-1-0294 JKW (Fifth Circuit Court), and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities and/or liabilities of the Council and the County as they relate to this agenda item.

Chair Furfaro: Excuse me, Al, ES-641 I deferred earlier because that Special Counsel was unable to travel and is ill.

Mr. Castillo: I am sorry. I was here and I forgot to cross it out. Thank you.

Chair Furfaro: The last one was ES-640.

Mr. Castillo: That is correct.

The meeting was called back to order, and proceeded as follows:

Chair Furfaro: We now have five (5) members. We can go into Executive Session. There is a motion and second, as made, I would like to do a roll call.

Ms. Yukimura moved to convene into Executive Session, seconded by Mr. Kagawa, and carried by the following vote:

| | | |
|----------------------------|--|------------|
| FOR EXECUTIVE SESSION: | Hooser, Kagawa, Nakamura, Yukimura, Furfaro | TOTAL - 5, |
| AGAINST EXECUTIVE SESSION: | None | TOTAL - 0, |
| EXCUSED & NOT VOTING: | Bynum, Rapozo | TOTAL - 2, |
| RECUSED & NOT VOTING: | None | TOTAL - 0. |

Ms. Fountain-Tanigawa: Five (5) ayes.

Chair Furfaro: Thank you very much. B.C., for your information, we have to come back out on three (3) of these items. I think we will be a while and on that note, members, I would like to start in five (5) minutes. So, if we can be in the Executive Chamber at 3:30 p.m., I would appreciate it. We are in recess for Executive Session.

There being no objections, the meeting recessed at 3:28 p.m.

There being no objections, the meeting reconvened at 6:45 p.m., and proceeded as follows:

Chair Furfaro: We are back from you are Executive Sessions. We are about to, in open, prepare to approve additional funding for ES-197, ES-198 and ES-199. Is there anyone that wants to give testimony? Come up, Shay.

Ms. Fountain-Tanigawa: C 2013-198.

There being no objections, the rules were suspended to take public testimony.

SHAYLENE ISERI-CARVALHO: I think it is good evening right now. Today there is a proposal for an additional ten thousand dollars (\$10,000) for Special Counsel for the County of Kaua'i. As this Council is aware, the depositions of Tim Bynum and Jake Delaplane we taken last month in April. Does it not draw and suspicion that the vial accusations that were made against me, yet I was not called to testify? Why would Bynum not call me as a primary witness? Why, because I was never present in any meeting neither with the Planning Department nor in any communications with Sheilah Miyake and did not make any appearances in court nor file documents in this case. I was not involved in this case because it is a misdemeanor case that carries relatively light penalties compared to the murders, sex assaults, robberies, and felony assaults that I review routinely. Utilizing my decades of experience and talent on my case would be wasteful of the County's resources. Mr. Bynum was well aware who handled his case, which was Mr. Delaplane because Mr. Delaplane publicly appeared in court on all of these matters and was the one who solely filed hundreds of pages of court documents. Yet, noticeably Mr. Delaplane's name is absent from the Bynum lawsuit. It is clear that Bynum had an ulterior motive to pursue a witch-hunt against me to affect the election. The timing was not coincidental. Bynum's actions appeared to want to provide a chilling effect on the Prosecutors who seek justice against public officials

involved in wrongdoing. Mr. Bynum claims he simply had a rice cooker. This is absolutely false. He not only had a rice cooker, but he had a separate entrance, a separate trash can, a double sink, a spice rack, and full-sized refrigerator among other things that were documented in photos and statements taken by Planning Officials. An independent Police Officer, who was called to the residence on a felony criminal complaint unaware of any Planning investigation, filed a report stating that Bynum was renting this unit to a non-relative who was living there. Bynum himself filed an Ethics Disclosure Form claiming rental income. Planning Officials also documented that he had not permit to use his property for this purpose. There were many accusations against me made in his complaint and when confronted by Attorneys hired for the County, he provided zero (0) evidence to support any of his claims. His own testimony proved that his allegations had no merit. Yet he took the opportunity to defame me right before the election by sending out a press release and appearing on television with his false allegations to millions who watched. The conclusion by the Attorneys for the County and my personal Attorney who I hired to represent me in my personal capacity, one hundred percent (100%) agreed that there is and I would highlight and capitalize, that there is absolutely no merit to his claims against me. You all know how difficult it can be to get concurrence by numerous lawyers. My Attorney Torkildson, Katz et al. who my Attorney, Bob Katz, is a partner has Attorneys who together have hundreds of years of experience and stellar reputation for providing over sixty (60) years of excellence in the legal community.

Chair Furfaro: Shay, I am going to stop you right there to number one tell you three (3) minutes is up and you will have another three (3) minutes. But I want to make sure that the testimony that you are giving us now, our item is for ten thousand dollars (\$10,000) in fees for continued legal representation. What you are doing is of your own choice here.

Ms. Iseri-Carvalho: Right. I have talked to my Attorneys. The firm as I was on, the Torkildson, Katz has a stellar reputation for providing over sixty (60) years of experience in the legal community. The firm was recognized by U.S. News and Honolulu Magazine as having the best lawyers and the best law firm in 2010. My private Attorney Richard Wilson has almost thirty (30) years of experience and Richard Nakamura who represents the County and he is partner with Ayabe Chong Nishimoto et al., has almost four (4) decades of experience. When they say a case has no merit, they know that it has no merit. The strong statements are supported by thousands of cases that they have handled in addition to their reputation. My Attorneys have informed me that in the first week of June, they will file motions to dismiss this case. Should the motions be granted, I hope this Council will be proactive in seeking a reprimand against Councilmember Bynum for actions unbecoming of a public servant. When a Councilmember chooses to abuse the judicial system by suing other County officials and intentionally attracts the media with his sensationalism of untrue facts, he needs to held accountable. All of you were elected to do the right thing. The reputation and integrity of the County, the County officials and County Council is priceless. To settle a lawsuit with month merit based on purely financial decisions is immoral in a government setting. It destroys the public's faith and encourages more filing of frivolous lawsuits. If a person knows that County will always pay because the legal fees could escalate with a trial even if absolutely no wrong was committed against the accused, frivolous lawsuits like Mr. Bynum's will continue to be filed. This wrong is further perpetuated because using insurance moneys means that premiums will skyrocket further. While it may appear initially that is a cheaper alternative, eventually settling leads to a much higher long-term overall cost. The public needs to hear the

truth in this case. Any settlement amount would be too high when there is the reputation and the integrity of elected officials at stake. Thank you. That concludes my testimony.

Chair Furfaro: Any questions for Shay from the members?
Seeing none, thank you very much.

Ms. Iseri-Carvalho: Thank you.

There being no objections, the meeting was called back to order, and proceeded as follows:

Chair Furfaro: Jade, I would like to go to C 2013-197 first.

C 2013-197 Communication (05/14/2013) from the County Attorney, requesting Council approval to expend up to \$10,000 for Special Counsel's continued services provided for the County of Kaua'i in Ricky L. Ball vs. Kaua'i Lagoons Resort Company, Ltd., et al., Civil No. 12-1-0289 JKW (Fifth Circuit Court), and related matters: Mr. Kagawa moved to approve C 2013-197, seconded by Ms. Nakamura.

Chair Furfaro: Discussion? There is no one in the audience to give testimony.

There being no objections, the rules were suspended to take public testimony.

There being no one to provide testimony at this time, the meeting was called back to order, and proceeded as follows:

Chair Furfaro: Let us take a vote on this approval and we will do it by roll call, please.

The motion to approve C 2013-197 was then put, and carried by the following vote:

| | | |
|-----------------------|---------------------------|------------|
| FOR APPROVAL: | Hooser, Kagawa, Nakamura, | |
| | Yukimura, Furfaro | TOTAL - 5, |
| AGAINST APPROVAL: | None | TOTAL - 0, |
| EXCUSED & NOT VOTING: | Bynum, Rapozo | TOTAL - 2, |
| RECUSED & NOT VOTING: | None | TOTAL - 0. |

Ms. Fountain-Tanigawa: Five (5) ayes.

Chair Furfaro: Let us go to C 2013-198.

C 2013-198 Communication (05/14/2013) from the County Attorney, requesting Council approval to expend up to \$10,000 for Special Counsel's continued services provided for Defendant County of Kaua'i in Tim Bynum vs. County of Kaua'i, et al., Civil No. CV12-00523 RLP (U.S. District Court), and related matters: Mr. Hooser moved to approve C 2013-199, seconded by Mr. Kagawa.

Chair Furfaro: There is a motion to approve and a second. There is no one in the audience at this time. Further discussion, members? If not, roll call, please.

The motion to approve C 2013-198 was then put, and carried by the following vote:

| | | |
|-----------------------|--|------------|
| FOR APPROVAL: | Hooser, Kagawa, Nakamura, Yukimura, Furfaro | TOTAL – 5, |
| AGAINST APPROVAL: | None | TOTAL – 0, |
| EXCUSED & NOT VOTING: | Rapozo | TOTAL – 1, |
| RECUSED & NOT VOTING: | Bynum | TOTAL – 1. |

Ms. Fountain-Tanigawa: Five (5) ayes.

Chair Furfaro: Five (5) ayes. Thank you. Let us go to C 2013-199.

C 2013-199 Communication (05/14/2013) from the County Attorney, requesting Council approval to expend up to \$10,000 for Special Counsel's continued services provided for the County of Kaua'i in Jeffery Sampoang vs. Harvey Brothers, LLC; et al., Civil No. 12-1-0294 JKW (Fifth Circuit Court), and related matters: Ms. Nakamura moved to approve C 2013-199, seconded by Ms. Yukimura.

Chair Furfaro: No public testimony, motion to approve and second. Any further discussion, Mr. Kagawa?

Mr. Kagawa: Yes. Mr. Chair, I would just like to wish Mr. Sampoang a speedy recovery.

Chair Furfaro: Thank you very much. I am sure that speaks from the entire Council. Let us do a call vote, please

The motion to approve C 2013-199 was then put, and carried by the following vote:

| | | |
|-----------------------|--|------------|
| FOR APPROVAL: | Hooser, Kagawa, Nakamura, Yukimura, Furfaro | TOTAL – 5, |
| AGAINST APPROVAL: | None | TOTAL – 0, |
| EXCUSED & NOT VOTING: | Bynum, Rapozo | TOTAL – 2, |
| RECUSED & NOT VOTING: | None | TOTAL – 0. |

Ms. Fountain-Tanigawa: Five (5) ayes.

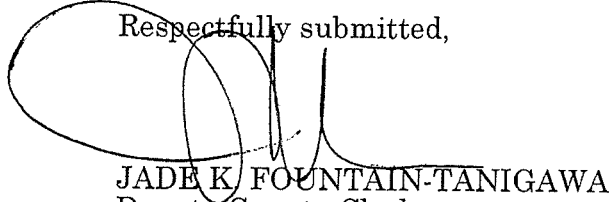
Chair Furfaro: I believe that completes the business that we had scheduled for today, May 22nd.

Ms. Fountain-Tanigawa: Yes, it does.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 9:06 p.m.

Respectfully submitted,



JADE K. FOUNTAIN-TANIGAWA
Deputy County Clerk

:cy:aa

(May 22, 2013)

FLOOR AMENDMENT

Proposed Draft Bill (No. 2483), A Bill For An Ordinance Amending Chapters 7, 8, And 9, Kaua'i County Code 1987, As Amended, Relating To The Adjustment of Various Permitting Charges And Fees Levied By The Department Of Planning (County Of Kaua'i, Applicant)

Introduced by: NADINE K. NAKAMURA

1. Amend Proposed Draft Bill (No. 2483), SECTION 3, Sec. 8-3.1 by adding a new subsection (h) to read as follows:

“(h) After-the-fact Permits

In addition to the Zoning Permit filing and processing fee(s), an application for a Zoning Permit for a structure partially or fully constructed without the required approvals and/or a use that has commenced prior to the required approvals shall have an additional filing, inspection, and processing fee of two hundred and fifty dollars (\$250.00).”

(Material to be deleted is bracketed. New material to be added is underscored.)

V:\AMENDMENTS\2012-2014 term\Planning Permit Fees Floor Amendment SS_cy.doc